

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Crabs; Testing and Sale
(LAC 7:XXXV.143 and 145)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of crab or crabmeat in Louisiana. These rules are being adopted in accordance with R.S. 3:2A, 3:3B, R.S. 3:4608 and the Emergency Rule provisions of R.S. 49:953 B of the Administrative Procedure Act.

The Commissioner has promulgated these Rules and regulations to implement standards relating to Chloramphenicol in crab or crabmeat that are consistent with standards adopted by the FDA regarding chloramphenicol in foods. All crab or crabmeat sold in Louisiana must meet the standards adopted by the Commissioner, herein, prior to distribution and sale.

Chloramphenicol is a broad-spectrum antibiotic that has been restricted by the FDA for use in humans only in those cases where other antibiotics have not been successful. The FDA has set a zero tolerance level for Chloramphenicol in food and has prohibited the extra label use of Chloramphenicol in the United States in food producing animals, (21 CFR 530.41).

Chloramphenicol is known to cause aplastic anemia, which adversely affects the ability of a person's bone marrow to produce red blood cells. Aplastic anemia can be fatal. In addition, according to the National Institute on Environmental and Health Sciences, Chloramphenicol can reasonably be anticipated to be a human carcinogen. In widely accepted references such as "Drugs in Pregnancy and Lactation," the use of Chloramphenicol is strongly dissuaded during pregnancy, especially late pregnancy. Chloramphenicol can be transmitted to an unborn child through the placenta and to an infant through the mother's milk. The dosage transmitted to an unborn child is essentially the same dosage as is taken in by the mother. However, the unborn child is unable to metabolize Chloramphenicol as efficiently, thereby causing the risk of an increasing toxicity level in the unborn child. Although the effect on an infant as a result of nursing from a mother who has taken Chloramphenicol is unknown, it is known that such an infant will run the risk of bone marrow depression.

Recently, FDA, the states of Alabama and Louisiana have found chloramphenicol in crab or crabmeat imported from other countries. The department has found chloramphenicol in crab, or crabmeat imported from Vietnam, Thailand and China. The possibility exists that other countries may export chloramphenicol-contaminated crab or crabmeat to the U.S.A.

The sale of such imported crab or crabmeat in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to Chloramphenicol, a known health

hazard. The sale, in Louisiana, of crab or crabmeat containing Chloramphenicol presents an imminent peril to the public's health, safety and welfare. This peril can cause consumers to quit buying crab or crabmeat from any source, including Louisiana. If consumers cease to buy, or substantially reduce, their purchases of Louisiana crab or crabmeat then Louisiana's crab industry will be faced with substantial economic losses. Any economic losses suffered by Louisiana's crab industry will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

The Commissioner of Agriculture and Forestry has, therefore, determined that this Emergency Rules is necessary to immediately implement testing of crab or crabmeat for Chloramphenicol, to provide for the sale of crab or crabmeat and any products containing crab or crabmeat that are not contaminated with Chloramphenicol. These Rules become effective upon signature, March 21, 2003, and will remain in effect 120 days, unless renewed by the Commissioner or until permanent Rules are promulgated.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§143. Chloramphenicol in shrimp and crawfish prohibited; testing and sale of

A. Definitions.

Crab Any such animals, whether whole, portioned, processed, shelled, and any product containing any crab or crabmeat.

Food Producing Animals Both animals that are produced or used for food and animals, such as seafood, that produce material used as food.

Geographic Area A country, province, state, or territory or definable geographic region.

Packaged Crab Any crab or crabmeat, as defined herein, that is in a package, can, or other container, and which is intended to eventually be sold to the ultimate retail purchaser in the package, can or container.

B. No crab or crabmeat may be held, offered or exposed for sale, or sold in Louisiana if such crab or crabmeat contains Chloramphenicol.

C. No crab or crabmeat that is harvested from or produced, processed or packed in a geographic area, that the Commissioner declares to be a location where Chloramphenicol is being used on or found in food producing animals or in products from such animals, may be held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E. No crab or crabmeat from any such geographic area may be used, as an ingredient in any food held, offered or exposed for sale, or sold in Louisiana without first meeting the requirements of Subsection E.

D. The Commissioner may declare a geographic area to be a location where Chloramphenicol is being used on or found in food producing animals or in products from such animals, based upon information that would lead a

reasonable person to believe that Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in that geographic area.

1. Any such declaration shall be subject to promulgation in accordance with the provisions of the Administrative Procedure Act.

2. The Commissioner may release any such geographic area from a previous declaration that Chloramphenicol is being used on food producing animals in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

E. Crab or crabmeat that comes from a geographic area declared by the Commissioner to be a location where Chloramphenicol is being used on, or is found in food producing animals or in products from such animals, must meet the following requirements for sampling, identification, sample preparation, testing and analysis before being held, offered or exposed for sale, or sold in Louisiana.

1. Sampling:

a. The numbers of samples that shall be taken are as follows:

i. two samples are to be taken of crab or crabmeat that are in lots of fifty pounds or less;

ii. four samples are to be taken of crab or crabmeat that are in lots of fifty-one to one hundred pounds;

iii. twelve samples are to be taken of crab or crabmeat that are in lots of one hundred and one pounds up to fifty tons;

iv. twelve samples for each fifty tons are to be taken of crab or crabmeat that are in lots of over fifty tons.

b. For packaged crab or crabmeat, each sample shall be at least six ounces, (170.1 grams), in size and shall be taken at random throughout each lot of crab or crabmeat. For all other crab or crabmeat, obtain approximately one pound, (454 grams), of crab or crabmeat per sample from randomly selected areas.

c. If the crab or crabmeat to be sampled consists of packages of crab or crabmeat grouped together, but labeled under two or more trade or brand names, then the crab or crabmeat packaged under each trade or brand name shall be sampled separately. If the crab or crabmeat to be sampled are not packaged, but are segregated in such a way as to constitute separate groupings, then each separate grouping shall be sampled separately.

d. A composite of the samples shall not be made. Each sample shall be tested individually. Each sample shall be clearly identifiable as belonging to a specific group of crab or crabmeat. All samples shall be kept frozen and delivered to the lab.

2. Each sample shall be identified as follows:

a. any package label;

b. any lot or batch numbers;

c. the country, province and city of origin;

d. the name and address of the importing company;

e. unique sample number identifying the group or batch sample and subsample extension number for each subsample.

3. Sample Preparation. For small packages of crab or crabmeat up to and including one pound, use the entire sample. Shell the crabs, exercising care to exclude all shells

from sample. Grind sample with food processor type blender while semi-frozen or with dry ice. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample in a freezer as a reserve.

4. Sample Analysis

a. Immunoassay test kits may be used if the manufacturer's published detection limit is one part per billion, (1 ppb) or less. Acceptable test kits include r-iopharm Ridascreen Chloramphenicol enzyme immunoassay kit and the Charm II Chloramphenicol kit. The Commissioner may authorize other immunoassay kits with appropriate detection limits of 1 ppb or below to be used. Each sample must be run using the manufacturer's test method. The Manufacturer's specified calibration curve must be run with each set. All results 1 ppb or above must be assumed to be Chloramphenicol unless further testing by approved GC/LC method indicates the result to be an artifact.

b. HPLC-MS, GC-ECD, GC-MS methods currently approved by FDA, the United States Department of Agriculture or the Canadian Food Inspection Agency with detection limits of 1 ppb or below may also be used.

c. Other methods for sampling, identification, sample preparation, testing and analysis may be used if expressly approved in writing by the Commissioner.

5. Any qualified laboratory may perform the testing and analysis of the samples unless the laboratory is located in any geographic area that the Commissioner has declared to be a location where Chloramphenicol is being used on or found in food producing animals, or in products from such animals. The Commissioner shall resolve any questions about whether a laboratory is qualified to perform the testing and analysis.

6. The laboratory that tests and analyzes a sample or samples for Chloramphenicol shall certify the test results in writing.

7. A copy of the certified test results along with the written documentation necessary to show the methodology used for the sampling, identification, sample preparation, testing and analysis of each sample shall be sent to and actually received by the Department prior to the crab or crabmeat being held for sale, offered or exposed for sale, or sold in Louisiana.

a. The test results and accompanying documentation must contain a test reference number.

b. The certified test results and the accompanying documentation must be in English and contain the name and address of the laboratory and the name and address of a person who may be contacted at the laboratory regarding the testing of the crab or crabmeat.

8. Upon actual receipt by the Department of a copy of the certified test results and written documentation required to accompany the certified test results then the crab or crabmeat may be held, offered or exposed for sale, or sold in Louisiana, unless a written stop-sale, hold or removal order is issued by the Commissioner.

9. A copy of the test results, including the test reference number, shall either accompany every shipment and be attached to the documentation submitted with every shipment of such crab or crabmeat sent to each location in Louisiana or shall be immediately accessible to the Department, upon request, from any such location.

H. Any person who is seeking to bring crab or crabmeat that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such crab or crabmeat in Louisiana shall be responsible for having such crab or crabmeat sampled and tested in accordance with Subsection E. Any such person must, at all times, be in full and complete compliance with all the provisions of this Section.

I. The Commissioner may reject the test results for any crab or crabmeat if the Commissioner determines that the methodology used in sampling, identifying, sample preparation, testing or analyzing any sample is scientifically deficient so as to render the certified test results unreliable, or if such methodology was not utilized in accordance with, or does not otherwise meet the requirements of this Section.

J. In the event that any certified test results are rejected by the Commissioner then any person shipping or holding the crab or crabmeat will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the Commissioner. Thereafter, it will be the duty of any such person to abide by such order until the Commissioner lifts the order in writing. Any such person may have the crab or crabmeat retested in accordance with this Section and apply for a lifting of the Commissioner's order upon a showing that the provisions of this Section have been complied with and that the crab or crabmeat are certified as being free of Chloramphenicol.

K. The Department may inspect, and take samples for testing, any crab or crabmeat, of whatever origin, being held, offered or exposed for sale, or sold in Louisiana.

L. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any crab or crabmeat that does not meet the requirements of this Section. Any such order shall remain in place until lifted in writing by the Commissioner.

M. The Department may take physical possession and control of any crab or crabmeat that violate the requirements of this Section if the Commissioner finds that the crab or crabmeat presents an imminent peril to the public health, safety and welfare and that issuance of a stop-sale, hold or removal order will not adequately protect the public health, safety and welfare.

N. The Commissioner declares that he has information that would lead a reasonable person to believe that Chloramphenicol is being used on or found in food producing animals, or in products from such animals, in the following geographic area(s):

1. The geographic area or areas are:

a. The countries of Vietnam, Thailand, Mexico, Malaysia and China.

2. All crab and crabmeat harvested from or produced, processed or packed in any of the above listed geographic areas are hereby declared to be subject to all the provisions of this Section, including sampling and testing provisions.

O. All records and information regarding the distribution, purchase and sale of crabs or crabmeat or any food containing crab or crabmeat shall be maintained for two years and shall be open to inspection by the Department.

P. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

Q. The effective date of this Section is March 14, 2003.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, & 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture & Forestry, Office of the Commissioner, LR 29:

§145. Labeling of foreign shrimp and crawfish by country of origin

A. Definitions.

Crab or Crabmeat Any crab or crabmeat, whether whole, portioned, processed or shelled and any product containing any crab or crabmeat.

Foreign Crab or Crabmeat Any crab or crabmeat, as defined herein that is harvested from or produced, processed or packed in a country other than the United States.

B. All foreign crab or crabmeat, imported, shipped or brought into Louisiana shall indicate the country of origin, except as otherwise provided in this Section.

C. Every package or container that contains foreign crab or crabmeat, shall be marked or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of the package or container will permit so as to indicate to the ultimate retail purchaser of the crab or crabmeat with the English name of the country of origin.

1. Legibility must be such that the ultimate retail purchaser in the United States is able to find the marking or label easily and read it without strain.

2. Indelibility must be such that the wording will not fade, wash off or otherwise be obliterated by moisture, cold or other adverse factors that such crab or crabmeat are normally subjected to in storage and transportation.

3. Permanency must be such that, in any reasonably foreseeable circumstance, the marking or label shall remain on the container until it reaches the ultimate retail purchaser unless it is deliberately removed. The marking or label must be capable of surviving normal distribution and storing.

D. When foreign crab or crabmeat are combined with domestic crab or crabmeat, or products made from or containing domestic crab or crabmeat, the marking or label on the container or package or the sign included with any display shall clearly show the country of origin of the foreign crab or crabmeat.

E. In any case in which the words "United States," or "American" the letters "U.S.A.," any variation of such words or letters, or the name of any state, city or location in the United States, appear on any container or package containing foreign crab or crabmeat, or any sign advertising such foreign crab or crabmeat for sale, and those words, letters or names may mislead or deceive the ultimate retail purchaser as to the actual country of origin of the crab or crabmeat, then the name of the country of origin preceded by "made in," "product of," or other words of similar meaning shall appear on the marking, label or sign. The wording indicating that the crab or crabmeat is from a country other than the United States shall be placed in close proximity to the words, letters or name that indicates the crab or crabmeat is a product of the United States in a legible, indelible and permanent manner. No provision of this Section is intended to or is to be construed as authorizing the use of the words "United States," "American," or the letters "U.S.A.," or any variation of such words or letters, or the name of any state, city or location in the United States, if such use is deceptive, misleading or prohibited by other federal or state law.

F. Foreign crab or crabmeat shall not have to be marked or labeled with the country of origin if such crab or crabmeat is included as components in a product manufactured in the

United States and the crab or crabmeat is substantially transformed in the manufacturing of the final product. But in no event shall thawing, freezing, packing, packaging, re-packing, re-packaging, adding water, portioning, shelling, processing, peeling, partially cooking or combining with domestic crab or crabmeat shall not be considered to be a substantial transformation.

G. The Commissioner shall have all the powers granted to him by law, or in accordance with any cooperative endeavor with any other public agency, to enforce this Section, including the issuance of stop-sale, hold or removal orders and the seizing of crab or crabmeat mislabeled or misbranded as to the country of origin.

H. Penalties for any violation of this Section shall be the same as and assessed in accordance with R. S. 3:4624.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2, 3:3, & 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture & Forestry, Office of the Commissioner, LR 29:

Bob Odom
Commissioner

0303#001

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

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

In accordance with the Administrative Procedure Act R.S. 49:950(B) and R.S. 3:3202(A), the Commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in amending the following Rule for the implementation of regulations governing the use of the pesticide 2, 4-D and products containing 2, 4-D.

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

The Department has, therefore, determined that this Emergency Rule implementing further restrictions on the application of 2, 4-D, and products containing 2, 4-D, during the current crop year, are necessary in order to alleviate these perils.

This Rule become effective on April 1, 2003 and will remain in effect 120 days.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

§143. Restrictions on Application of Certain Pesticides

A. - O. ...

P. Regulations Governing Aerial Applications of 2, 4-D or Products Containing 2, 4-D

1. Registration Requirements

a. The Commissioner hereby declares that prior to making any commercial aerial or ground application of 2, 4-D or products containing 2, 4-D, as described in LAC 7:XXIII.143.P.3.a.i, the owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs ("DPEP") in writing.

b. The Commissioner hereby declares that all permits and written authorizations of applications of 2, 4-D or products containing 2, 4-D in the areas listed in LAC 7:XXIII.143.P.3.a.i., shall be a part of the record keeping requirements, and be in the possession of the owner/operator prior to application.

2. Grower Liability. Growers of crops shall not force or coerce applicators to apply 2, 4-D or products containing 2, 4-D to their crops when the applicators, conforming to the Louisiana Pesticide Law and Rules and Regulations or to the pesticide label, deem it unsafe to make such applications. Growers found to be in violation of this section shall forfeit their right to use 2, 4-D or products containing 2, 4-D on their crops, subject to appeal to the Advisory Commission on Pesticides.

3. 2, 4-D or products containing 2, 4-D; Application Restriction

a. Aerial application of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually between April 3 and May 1 in the following parishes:

i. Allen (East of U.S. Highway 165 and North of U.S. Highway 190), Avoyelles (West of LA Highway 1), Evangeline, Pointe Coupee (West of LA Highway 1 and North of U.S. Highway 190), Rapides, & St. Landry (North of U.S. Highway 190);

ii. applications of 2, 4-D, or products containing 2, 4-D, shall not be made in any manner by any commercial or private applicators between May 1 and August 1 in the areas listed in LAC 7:XXIII.143.P.3.a.i., except commercial applications of 2, 4-D or products containing 2, 4-D is limited to only permitted applications annually between May 1 and August 1 in the area south of LA Highway 104 and LA Highway 26 and north of U.S. Highway 190 between U.S. Highway 165 and LA. Highway 13 in the parishes of Allen and Evangeline, and except upon written application to and the specific written authorization by the Assistant Commissioner of the Office of Agricultural and Environmental Sciences, or in his absence the Commissioner of Agriculture and Forestry.

4. Procedures for Permitting Applications of 2, 4-D or products containing 2, 4-D.

a. Prior to any application of 2, 4-D, or products containing 2, 4-D, a permit shall be obtained in writing from the Louisiana Department of Agriculture and Forestry. Such permits may contain limited conditions of applications and shall be good for five days from the date issued. Growers or commercial ground or aerial applicators shall obtain permits from the Director of Pesticides and Environmental Programs (DPEP). Commercial ground and aerial applicators shall fax daily to DPEP all permitted or written authorized applications of 2, 4-D or products containing 2, 4-D. The faxed information shall include but not be limited to the following:

- i. wind speed and direction at time of application;
- ii. temperature at time of application;

- iii. field location and quantity of acreage;
 - iv. time of application;
 - v. grower name, address and phone number;
 - vi. owner/operator firm name, address and phone number;
 - vii. applicator name, address, phone number and certification number;
 - viii. product name and EPA registration number;
 - ix. any other relevant information.
- b. The determination as to whether a permit for application is to be given shall be based on criteria including but not limited to:
- i. weather patterns and predictions;
 - ii. wind speed and direction;
 - iii. propensity for drift;
 - iv. distance to susceptible crops;
 - v. quantity of acreage to be treated;
 - vi. extent and presence of vegetation in the buffer zone;
 - vii. any other relevant data.

5. Monitoring of 2, 4-D or products containing 2, 4-D

a. Growers or owner/operators shall apply to the DPEP, on forms prescribed by the Commissioner, all requests for aerial applications of 2, 4-D or products containing 2, 4-D.

b. All owner/operators and private applicators shall maintain a record of 2, 4-D or products containing 2, 4-D applications.

6. Determination of Appropriate Action

a. Upon determination by the Commissioner that a threat or reasonable expectation of a threat to human health or to the environment exists, he may consider:

- i. stop orders for use, sales, or application;
- ii. label changes;
- iii. remedial or protective orders;
- iv. any other relevant remedies.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 19:791 (June 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 29:

Bob Odom
Commissioner

0304#012

DECLARATION OF EMERGENCY

**Department of Economic Development
Office of the Secretary**

Capital Companies Tax Credit Program
(LAC 10:XV.327)

The Department of Economic Development, Office of the Secretary, pursuant to the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), adopts the following amendment to the Rules of the Louisiana Capital

Companies Tax Credit Program as authorized by R.S. 51:1929. This Rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective March 17, 2003, and shall remain in effect for the maximum period allowed under the Act or until adoption of the Rule, whichever occurs first.

The Department of Economic Development, Office of the Secretary has found an immediate need to provide direction to certified Louisiana capital companies who are seeking to invest certified capital in "Louisiana-based economic development infrastructure projects", as such term is used in R.S. 51:1923(12)(c) of the Louisiana Capital Companies Tax Credit Program (the "CAPCO Program"). The term "Louisiana-based economic development infrastructure projects" is not defined in the CAPCO Program. Without these Emergency Rules the public welfare may be harmed as a result of the failure of certified Louisiana capital companies to invest in Louisiana-based economic development infrastructure projects which may impede economic development in Louisiana.

Title 10

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,
INVESTMENT SECURITIES, AND UCC**

Part XV. Other Regulated Entities

Chapter 3. Capital Companies Tax Credit Program

**§327. Louisiana-Based Economic Development
Infrastructure Projects**

A. An applicant seeking this designation for an intended investment shall provide to the secretary the following information along with the request for this designation:

- 1. a description of the project;
- 2. a description of all sources and uses of financing for the project;
- 3. a description of the proposed investment;
- 4. an analysis of how the investment in the project furthers economic development

within Louisiana;

5. a calculation of the percentage of the certified Louisiana capital company's total certified capital and total certified capital under management which will be invested in the project;

6. an analysis of whether the entity in which the certified Louisiana capital company proposes to invest is a qualified Louisiana business;

7. an analysis of whether the proposed investment meets the criteria set forth in §303 *Investment.b*;

8. a statement as to whether the business in which the certified Louisiana capital company proposes to invest, intends to acquire any real estate for resale or whether any real estate in which the certified Louisiana capital company proposes to invest is intended to be resold;

9. the charter documents for the entity that owns the Louisiana-based economic development infrastructure project and each intervening entity through which the certified Louisiana capital company owns its interest in the Louisiana-based economic development infrastructure project; and

10. copies of all management, maintenance, operations and other agreements which the certified Louisiana capital company contemplates being executed with respect to the Louisiana-based economic development infrastructure

project, or if no such agreements have yet been prepared, a description of all contemplated arrangements.

B. A Louisiana-based economic development infrastructure project shall be designated by the secretary for purposes of qualifying the investment under La. R.S. 1923(12)(c) if it meets the criteria set forth in each of subsections 1 through 5 of this Section B, or if it meets other criteria determined by the secretary from time to time.

1. The information shall demonstrate that 100 percent of the funds invested by the certified Louisiana capital company shall be used directly or indirectly:

a. for the acquisition, construction, modification, refurbishment or remodeling of physical facilities, other immovable property improvements or movable property which becomes affixed to or a component part of immovable property, in each case, located in Louisiana; or

b. as attendant expenses related to the investments, including without limitation, closing expenses, capital expenditure reserves, working capital, and reasonable fees and expenses relating to the management and operation of the facilities.

2. The facilities must accomplish at least two of the following, as determined by the secretary, or shall accomplish such other objectives as the secretary may determine from time to time:

a. provide below market rental environments for "disadvantaged businesses" as defined in R.S.51:1923 (7);

b. provide attractive rental environment for the attraction of out of state companies in the targeted clusters identified in the State's Vision 2020 Plan to locate headquarters or operations in Louisiana;

c. provide below market rental environments for qualified Louisiana startup businesses as defined In La. R.S.51:1923 (14);

d. provide attractive rental environments for qualified Louisiana technology-based businesses as defined In La. R.S.51:1923 (15); or

e. provide below market cost services.

3. The investment by the certified Louisiana capital company in the Louisiana-based economic development infrastructure project shall be made either to acquire an equity interest in an entity that directly or indirectly owns or acquires an interest in a Louisiana-based economic development infrastructure project, to provide debt financing to an entity that owns or acquires an interest in the Louisiana-based economic development infrastructure project, or to provide a combination of these investment mechanisms.

4. The secretary shall review and approve of the percentage of the certified Louisiana capital company's certified capital and total certified capital under management that is invested in the proposed project or project entity, in his or her discretion.

5. The secretary may adopt additional criteria for his or her approval of Louisiana-based economic development infrastructure projects.

C. An investment approved by the secretary which is made by a certified Louisiana capital company in a Louisiana-based economic development infrastructure project or an entity that directly or indirectly owns an interest in a Louisiana-based economic development

infrastructure project in accordance with this Rule shall be deemed to "further economic development within Louisiana" for purposes of R.S. 51:1923(12).

D. Following the secretary's designation of an investment by a certified Louisiana capital company as a qualified investment in a Louisiana-based economic development infrastructure project, the secretary shall issue a letter to the certified Louisiana capital company applicant confirming the designation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1929.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 29:

Don J. Hutchinson
Secretary

0304#002

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant ProgramsC Military Service
(LAC 28:IV.2103)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to amend the Rules of the Scholarship/Grant programs.

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 March 25, 2003, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 28

EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

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

A. - E.8. ...

9. Military Service

a. Definition. The student/recipient is in the United States Armed Forces Reserves or National Guard and is called on active duty status or is performing emergency state service with the National Guard or voluntarily enlists and enters on active duty as a member of the regular United States Armed Forces during a National Emergency declared by the President of the United States or when the United States is engaged in armed conflict.

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

i. a completed exception request form including official college transcripts, the dates of the required leave of absence, necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, and the length of duty (beginning and ending dates); and

ii. a written certification from the commanding officer or regional supervisor including the dates and location of active duty; or

iii. a certified copy of the military orders.

c. Maximum Length of Exception. Up to the length of the required active duty service period, not to exceed four years.

E.10. - 11.c. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 17: 959 (October 1991), amended and repromulgated LR 22:338 (May 1996), amended LR 23:1648 (December 1997), promulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1017 (May 2000), LR 26:2003 (September 2000), LR 27:1875 (November 2001), LR 27:1866 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330, 2333 (November 2002), LR 29:126 (February 2003), LR 29:

George Badge Eldredge
General Counsel

0304#004

DECLARATION OF EMERGENCY

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

Durable Medical Equipment Program
NebulizersC Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2002-2003 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently provides reimbursement for nebulizers through the Durable Medical Equipment Program, after authorization has been given by the Unisys Prior Authorization Unit. Currently

reimbursement for nebulizers is established at the lower of \$95 or the provider's usual and customary charge. As a result of a budgetary shortfall, the Bureau has determined it is necessary to reduce the reimbursement for nebulizers to the lower of \$60 or the provider's usual and customary charge. This action is being taken in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Durable Medical Equipment Program by approximately \$11,223 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service May 1, 2003 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces reimbursement for nebulizers to the lower of \$60 or the provider's usual and customary charge. Delivery fees shall be included in the reimbursement.

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

Interested persons may submit written comments to Ben A. Bearden at 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

0304#039

DECLARATION OF EMERGENCY

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

Medicaid EligibilityC Expansion of Coverage
for Low Income Pregnant Women

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated 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 final Rule, whichever occurs first.

Section 1902(a)(10)(A)(i)(IV) and 1905(n)(2) of the Social Security Act requires states to provide Medicaid coverage to pregnant women whose pregnancy has been medically verified and whose family income is at or below 133 percent of the federal poverty level. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently provides coverage to low-income pregnant women in compliance with the minimum federal poverty level income allowed by regulations for pregnant women coverage. Income eligibility is based upon the current federal poverty level for the household size. Medicaid coverage for pregnant women is limited to prenatal care, delivery, 60 days of postpartum care

and treatment for other conditions that may complicate the pregnancy.

Act 13 of the 2002 Regular Session of the Louisiana Legislature allocated funding for the eligibility determination costs associated with the expansion of Medicaid and the Louisiana Children's Insurance Program to provide coverage for pregnant women with family income not greater than 200 percent of the federal poverty level. Under general Medicaid regulations, the Department has the option to provide coverage to low income pregnant women whose family income is up to, but no higher than, 185 percent of the federal poverty level. In compliance with Act 13 and pursuant to Sections 1902(a)(10)(A)(i)(I), 1902(1)(1)(A) of the Social Security Act, the department amended the provisions governing the eligibility income levels for coverage for low income pregnant women (*Louisiana Register, Volume 28, Number 12*). This Emergency Rule is being promulgated to continue the provisions contained in the January 1, 2003 Rule. This action is being taken to protect the health and well being of pregnant women and infants by facilitating access to prenatal care and thereby improving birth outcomes.

Emergency Rule

Effective May 2, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the current provisions governing eligibility for low income pregnant women and expands coverage to include low income pregnant women with family income greater than 133 percent, but less than or equal to 185 percent of the federal poverty level (Sections 1902(a)(10)(A)(i)(I), 1902(1)(1)(A) of the Social Security Act).

Interested persons may submit written comments to Ben A. Bearden at 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

0304#044

DECLARATION OF EMERGENCY

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

Medicaid Eligibility Income Disregards for Low Income Pregnant Women

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated 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 final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently utilizes the income methodologies of the former Aid to Families with Dependent Children (AFDC) Program to determine Medicaid eligibility for families and children. Under general Medicaid rules, states are required to follow the same rules and processes used by the most closely related cash assistance program to determine Medicaid eligibility.

Section 1902(r)(2) of the Social Security Act allows states to use less restrictive income and resource methodologies in determining eligibility for most Medicaid eligibility groups than are used by the cash assistance program. Under current Medicaid eligibility policy for low income pregnant women, income eligibility is based upon the current federal poverty level for the household size. The total countable income of all members of the income unit is compared to the appropriate income standard for the income unit size.

Act 13 of the 2002 Regular Session of the Louisiana Legislature provided additional funding for eligibility determination costs associated with the expansion of Medicaid and the Louisiana Children's Insurance Program to provide coverage for pregnant women with family income not greater than 200 percent of poverty level. In compliance with Act 13 and pursuant to Sections 1902(a)(10)(A)(i)(I), 1902(1)(1)(A) of the Social Security Act, the department amended the provisions contained in Section I of the May 20, 1996 rule governing the treatment of income in the eligibility determination process (*Louisiana Register, Volume 28, Number 12*). This Emergency Rule is being promulgated to continue the provisions contained in the January 1, 2003 Rule. This action is being taken to protect the health and well being of low income pregnant women and infants by facilitating access to prenatal care and thereby improving birth outcomes.

Emergency Rule

Effective May 2, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions contained in the May 20, 1996 rule governing countable income in the determination of Medicaid eligibility for low income pregnant women.

Utilizing provisions allowed under Section 1902(r)(2) of the Social Security Act, the department disregards the first 15 percent of monthly gross income under the federal poverty level standards when determining Medicaid eligibility for low income pregnant women (Sections 1902(a)(10)(A)(i)(I), 1902(1)(1)(A) of the Social Security Act).

Implementation of this proposed Rule is subject to approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at 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

0304#045

DECLARATION OF EMERGENCY

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

Medicaid EligibilityC Medically Needy ProgramC Incurred Deductions

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2002-2003 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid Program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening and utilization review, and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule promulgating the Medicaid Eligibility Manual in its entirety by reference in May of 1996 (*Louisiana Register, Volume 22, Number 5*). The Department provides Medicaid coverage under the Medically Needy Program that is optional under Title XIX of the Social Security Act Section 1902(a)(10) and 42 CFR Subpart D Section 435.300. The Medically Needy Program includes those individuals or families who meet all AFDC or SSI related categorical requirements and whose income is within the Medically Needy Income Eligibility Standard. It also includes those individuals or families whose resources fall within the categorical limits, but whose income is above the Medically Needy Income Eligibility Standard. These individuals or families having income in excess of the Medically Needy Income Eligibility Standard can reduce excess income by incurring medical and/or remedial care expenses. This method used for determining eligibility is referred to as spend-down. A state may choose to exclude from incurred expenses those bills for services furnished more than three months before the Medicaid application is filed for initial eligibility or in the case of a renewal more than three months before the first month of the new budget period or quarter of coverage. A state is required to deduct any current payment on such excluded expenses.

In compliance with Executive Order MJF 02-29, the Department amended the policy governing the consideration of incurred expenses in the eligibility determination process for the Medically Needy Program (*Louisiana Register, Volume 29, Number 1*). This Emergency Rule is being promulgated to continue the provisions contained in the January 1, 2003 Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Emergency Rule

Effective for applications filed on or after May 2, 2003, and those cases in which the eligibility renewal is due on or

after January 1, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions governing deductions for incurred medical expenses in the eligibility determination process for the Medically Needy Program. Those bills for necessary medical and remedial services furnished more than three months before the Medicaid application is filed or for renewals more than three months before the first month of a new budget period or quarter of coverage will be excluded as an incurred expense. Current payments on excluded expenses will be allowed as an incurred expense.

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 at 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

0304#043

DECLARATION OF EMERGENCY

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

Medicaid EligibilityC Treatment of Annuities

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated 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 final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule promulgating the *Medicaid Eligibility Manual* in its entirety by reference in May of 1996 (*Louisiana Register, Volume 22, Number 5*). Section I of the *Medicaid Eligibility Manual* addresses the eligibility factors considered in the determination of eligibility.

Section 13611 of the Omnibus Budget Reconciliation Act of 1993 amended Section 1917(c) of the Social Security Act and established Section 1917(d) to set forth rules wherein transfers of assets and trusts must be considered in determining eligibility for Medicaid. Current Medicaid eligibility rules are not clear relative to the consideration of annuities in the eligibility determination process. The policy does not clearly state that an annuity is considered a legal instrument or device similar to a trust.

In order to comply with the Omnibus Budget Reconciliation Act of 1993 and curb abuse in the transfer of assets, the Bureau amended Section I of the *Medicaid Eligibility Manual* in order to clarify current policy

regarding annuities (*Louisiana Register, Volume 29, Number 1*). This Emergency Rule is being promulgated to continue the provisions contained in the January 1, 2003 Rule. This action is being taken to avoid a budget deficit that will occur if applicants are allowed to continue to hide assets by not having annuities considered as an available resource.

Emergency Rule

Effective May 2, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends current Medicaid eligibility policy governing the transfer of assets and trusts to further define and clarify the consideration of annuities in the Medicaid eligibility determination process.

An annuity is considered a legal instrument or device similar to a trust. An annuity is defined as a contract or agreement by which one receives fixed, non variable payments on an investment for a lifetime or a specified number of years. An annuity containing a balloon payment will not be classified as an annuity for Medicaid eligibility purposes, but rather will be considered an available resource. A commercial (non-employment related) annuity purchased by or for an individual using that individual's assets will be considered an available resource unless it meets all of the following criteria. The annuity:

1. is irrevocable;
2. pays out principal and interest in equal monthly installments (no balloon payment) to the individual in sufficient amounts that the principal is paid out within the actuarial life expectancy of the annuitant;
3. names the State of Louisiana, Department of Health and Hospitals or its successor agency as the residual beneficiary of funds remaining in the annuity, not to exceed any Medicaid funds expended on the individual during his lifetime; and
4. is issued by an insurer or other body licensed and approved to do business in the jurisdiction in which the annuity is established.

This policy change shall be applicable to all pending applications, renewals of eligibility or changes in situations (as defined in Section L of the Medicaid Eligibility Manual) where the applicant/recipient has an annuity. Existing annuities which do not meet all of the above criteria must be amended to comply with these requirements within 90 days of the first renewal or first change in their situation (as defined in Section L of the Medicaid Eligibility Manual) occurring after enactment of this Rule.

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 at 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

0304#042

DECLARATION OF EMERGENCY

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

Out-of-State HospitalsC Inpatient Services Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2002-2003 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule in January of 1996 which established the reimbursement methodology for inpatient hospital services provided in out-of-state hospitals at the lower of 50 percent of billed charges or the Medicaid per diem rate of the state wherein the services were provided (*Louisiana Register, Volume 22, Number 1*). This Rule was subsequently amended in September of 1997 to increase the reimbursement to 72 percent of billed charges for inpatient services provided in out-of-state hospitals to recipients up to age 21 (*Louisiana Register, Volume 23, Number 9*).

As a result of a budgetary shortfall, the Bureau amended the reimbursement methodology contained in the January 1996 and September 1997 Rules for out-of-state hospitals that provided at least 500 inpatient hospital days in state fiscal year 1999 to Louisiana Medicaid recipients and were located in border cities. The reimbursement is established at the lesser of each hospital's actual cost per day as calculated from the 1998 filed Medicaid cost report or the Mississippi Medicaid per diem rate. The actual cost per day is calculated by dividing total Medicaid inpatient cost by total Medicaid inpatient days, including nursery days. This reimbursement methodology was applicable for all Louisiana Medicaid recipients who received inpatient services in an out-of-state hospital located in a border city, including those recipients up to the age of 21 (*Louisiana Register, Volume 26, Number 12*).

As a result of a budgetary shortfall, the bureau has determined that it is necessary to reduce the reimbursement for inpatient services provided in out-of-state hospitals. In addition, the bureau proposes to amend the reimbursement for children's hospitals located in states bordering Louisiana. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce

expenditures for out-of-state hospital inpatient services by approximately \$262,288 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on or after April 1, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the January 1996 and September 1997 Rules governing the reimbursement methodology for inpatient services provided in out-of-state hospitals. Reimbursement shall be established at the lower of 40 percent of billed charges or the Medicaid per diem rate of the state wherein the services are provided for recipients age 21 and older and the lower of 60 percent of billed charges or the Medicaid per diem rate of the state wherein the services are provided for recipients under the age of 21. Hospitals designated as children's hospitals that are located in states that border Louisiana shall be reimbursed at the lower of the Medicaid per diem rate of the state wherein the services are provided or the Louisiana children's hospital Medicaid peer group rate. Neonatal intensive care unit services, pediatric intensive care unit services, and burn unit services provided in these children's hospitals shall be paid the Louisiana peer group rate for the qualifying level of service documented by the hospital. The hospital stay and the level of service shall be authorized by the bureau.

Out-of-state hospitals that provided at least 500 inpatient hospital days in State Fiscal Year 1999 and are located in border cities (cities located within a 50 mile trade area of the Louisiana state border) will continue to be reimbursed at the lesser of each hospital's actual cost per day (based on the 1998 filed cost report) or the Medicaid per diem rate of the state wherein the services are provided. This reimbursement methodology is applicable for all Louisiana Medicaid recipients who receive inpatient services in an out-of-state hospital located in a border city, including those recipients up to the age of 21.

Implementation of the provisions of this Rule will be delayed until April 30, 2003 and 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 at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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

0304#010

DECLARATION OF EMERGENCY

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

Out-of-State HospitalsC Outpatient Services
Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule under the Medical Assistance

Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2002-2003 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R. S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule in January of 1996 which established the reimbursement methodology for outpatient hospital services provided in out-of-state hospitals. Reimbursement is set at 50 percent of billed charges except for those services subject to a fee schedule (*Louisiana Register, Volume 22, Number 1*).

As a result of a budgetary shortfall, the bureau has determined that it is necessary to reduce the reimbursement for outpatient services provided in out-of-state hospitals to 31.04 percent of billed charges. Outpatient services subject to a fee schedule will continue to be reimbursed per the fee schedule amounts. This action is necessary in order to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures for out-of-state hospital outpatient services by approximately \$53,097 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on or after April 1, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the reimbursement methodology contained in the January 1996 Rule for outpatient services provided in out-of-state hospitals. Reimbursement shall be reduced to 31.04 percent of billed charges. Outpatient services subject to a fee schedule will continue to be reimbursed in accordance with the amount on the fee schedule. This reimbursement methodology is applicable for all Louisiana Medicaid recipients who receive outpatient services in an out-of-state hospital, including those recipients up to the age of 21.

Implementation of the provisions of this Rule will be delayed until April 30, 2003 and 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 at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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

0304#009

DECLARATION OF EMERGENCY

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

Outpatient Hospital Laboratory Services
Reimbursement Increase
(LAC 50:XIX.4333)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated 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 of 1997 that established a uniform reimbursement methodology for all laboratory services subject to the Medicare Fee Schedule regardless of the setting in which the services are performed, outpatient hospital or a non-hospital setting. Outpatient laboratory services are reimbursed at the same reimbursement rate as laboratory services performed in non-hospital setting (*Louisiana Register, Volume 23, Number 4*).

Act 13 of the 2002 Regular Session of the Louisiana Legislature allocated additional funds to the Department of Health and Hospitals for the enhancement of the reimbursement rates paid to hospitals for outpatient services. In compliance with Act 13, the bureau promulgated an Emergency Rule increasing the reimbursement rates for outpatient hospital laboratory services (*Louisiana Register, Volume 28, Number 9*). This Emergency Rule is being promulgated to continue the provisions contained in the September 16, 2002 Rule. This action is being taken to promote the health and well being of Medicaid recipients by encouraging the continued participation of hospitals providing outpatient laboratory services in the Medicaid Program.

Effective for dates of service on or after May 16, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the May 20, 2002 Rule governing the reimbursement methodology for outpatient laboratory services as follows.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE

Part XIX. Other Services

Subpart 3. Laboratory and X-Ray

Chapter 43. Billing and Reimbursement

Subchapter B. Reimbursement

§4333. Outpatient Hospital Laboratory Services Reimbursement

A. Hospitals are reimbursed for outpatient laboratory services as follows.

1. The reimbursement rates paid to outpatient hospitals for laboratory services subject to the Medicare Fee Schedule shall be increased by 10 percent of the rate on file as of September 15, 2002.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1026 (May 2002), amended LR 29:

Implementation of this Emergency Rule shall be contingent upon: the certification of matching funds by non-state public hospitals (except small rural hospitals as defined in R.S. 40:1300.143); or the completion of cooperative endeavor agreements to make public agency transfers to the department as set forth in Act 13 of the 2002 Regular Session of the Louisiana Legislature; and the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at 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

0304#046

DECLARATION OF EMERGENCY

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

Outpatient Hospitals Rehabilitation Services
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated 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 final 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 1997 which established a uniform reimbursement methodology for all rehabilitation services regardless of the setting in which the services are performed, outpatient hospital or a free-standing rehabilitation center (*Louisiana Register, Volume 23, Number 6*). Rehabilitation services include physical therapy, occupational therapy, and speech/hearing and language therapy.

Act 13 of the 2002 Regular Session of the Louisiana Legislature allocated funds to the Department of Health and Hospitals to increase the reimbursement paid for physical therapy, occupational therapy, and speech/language and hearing therapy services provided to children under three years of age. As the result of the allocation of additional funds, the bureau promulgated an Emergency Rule increasing the reimbursement rates for rehabilitation services provided to children age birth through three years old (*Louisiana Register, Volume 28, Number 7*).

Act 13 also allocated additional funds to the department for enhancement of the reimbursement rates paid to hospitals for outpatient services. In compliance with Act 13 directive, the bureau promulgated an Emergency Rule increasing the reimbursement rates for outpatient hospital rehabilitation services (*Louisiana Register, Volume 28, Number 9*). This Emergency Rule is being adopted to continue the provisions contained in the September 16, 2002 Rule. This action is being taken to promote the health and well being of Medicaid recipients by encouraging the continued participation of hospitals providing outpatient rehabilitation services in the Medicaid Program.

Emergency Rule

Effective for dates of service on or after May 16, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rates for outpatient hospital rehabilitation services rendered to Medicaid recipients age three and older. This rate increase is not applicable to rehabilitation services rendered to recipients up to the age of three as the reimbursement rate increase for those services were addressed in the July 6, 2002 Emergency Rule. The new reimbursement rates will be as follows.

Service Description	New Fee
Physical Therapy, evaluation	\$68.31
Occupational therapy evaluation	\$64.52
Speech Evaluation	\$56.93
Hearing Evaluation	\$56.93
Wheelchair Seating Evaluation	\$64.52
Physical Therapy, 1 modality	\$25.30
Physical Therapy, 2 or more modalities	\$37.95
P.T.-1 or more procedure/modality, 15 min.	\$12.65
P.T.-with procedures, 20 min.	\$17.08
P.T.-with procedures, 30 min.	\$25.30
P.T.-with procedures, 45 min.	\$37.95
P.T.-with procedures, 60 min.	\$50.60
P.T.-with procedures and mod., 60 min.	\$50.60
P.T.-with procedures, 75 min.	\$63.25
P.T.-with procedures, 90 min.	\$75.90
Occupational therapy, 15 min.	\$10.12
Occupational therapy, 20 min.	\$13.92
Occupational therapy, 30 min.	\$20.24
Occupational therapy, 45 min.	\$30.36
Occupational therapy, 60 min.	\$40.48
Speech and hearing therapy, 15 min.	\$9.49
Speech and hearing therapy, 20 min.	\$12.65
Speech therapy, 30 min	\$18.98
Speech therapy, 45 min.	\$28.46
Speech therapy, 60 min.	\$37.95

This increase in outpatient hospital rehabilitation reimbursement rates is not applicable to home health rehabilitation services. Home health rehabilitation services will continue to be reimbursed at the rate paid for outpatient hospital rehabilitation services as of September 15, 2002, except for those services that were addressed in the July 6, 2002 Rule.

Implementation of this Emergency Rule shall be contingent upon the certification of matching funds by non-state public hospitals (except small rural hospitals as defined in R.S. 40:1300.143); or the completion of cooperative endeavor agreements to make public agency transfers to the department as set forth in the Act 13 of the 2002 Regular Session of the Louisiana Legislature; and the approval of the

U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Ben A. Bearden at 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

0304#047

DECLARATION OF EMERGENCY

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

Physicians Services
Cardiology, Maternal Fetal
Medicine and Inpatient Services
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of 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 final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses professional services in accordance with an established fee schedule for Physicians' Current Procedural Terminology (CPT) codes, locally assigned codes and Health Care Financing Administration Common Procedure Codes (HCPCs). Reimbursement for these services is a flat fee established by the bureau minus the amount which any third party coverage would pay.

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau promulgated a rule to increase the reimbursement paid to physicians by restoring a prior 7 percent reduction to the fees for specific procedure codes and increasing the reimbursement for other designated procedure codes (*Louisiana Register, Volume 27, Number 5*). After consultations with cardiologists, maternal fetal medicine specialists and other physicians around the state, the bureau increased the reimbursement rate for designated CPT procedure codes for services rendered to Medicaid recipients (*Louisiana Register, Volume 29, Number 1*). This Emergency Rule is being promulgated to continue the provisions contained in the January 1, 2003 rule. This action is being taken to protect the health and welfare of Medicaid recipients by ensuring continued access to services and encouraging continued physician participation in the Medicaid Program.

Emergency Rule

Effective for dates of service on or after May 2, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the

reimbursement for selected cardiology, maternal fetal medicine and hospital care services provided to Medicaid recipients. The following Physicians= Current Procedural Terminology (CPT) procedures shall be reimbursed at 84 percent of the Medicare Region 99 allowable for 2002.

Procedure Description
Transfusion, intrauterine, fetal
Amniocentesis; diagnostic
Chronic villus sampling, any method
Echocardiography, fetal, cardiovascular system, real time
Doppler echocardiography, fetal,...; follow-up or repeat study
Combined right heart catheterization and retrograde left heart catheterization, for congenital cardiac anomalies
Combined right heart catheterization and transseptal left heart catheterization through existing septal opening, with or without retrograde left heart catheterization, for congenital cardiac anomalies
Subsequent hospital care, per day (low complexity)
Subsequent hospital care, per day (moderate complexity)

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

Interested persons may submit written comments to Ben A. Bearden at 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

0304#049

DECLARATION OF EMERGENCY

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

Private HospitalsC Enhanced Outlier Payments

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated 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 established a reimbursement methodology for payments to disproportionate share hospitals for catastrophic costs associated with providing medically necessary services to children under six years of age (*Louisiana Register, Volume 20, Number 6*). The reimbursement methodology also addressed payments to all acute care hospitals for catastrophic costs associated with providing medically necessary services to infants one year of age or under. An outlier payment is calculated on an individual case basis and paid at cost if covered charges for medically necessary

services exceeds 200 percent of the prospective payment. The June 20, 1994 Rule was subsequently amended to revise the qualification and calculation for outlier payments (*Louisiana Register, Volume 22, Number 2*). To qualify for an outlier payment, the covered charges for the case must exceed both \$150,000 and 200 percent of the prospective payment.

Act 13 of the 2002 Regular Session of the Louisiana Legislature allocated funds for the payment of hospital outlier reimbursements, but limited payment to 100 percent of marginal cost and based on the use of updated cost-to-charge ratios. In compliance with Act 13, the Bureau adopted an Emergency Rule to amend the definition of marginal cost contained in the February 20, 1996 Rule and reduce the outlier payments made to private hospitals (*Louisiana Register, Volume 28, Number 7*). In addition, the base period was changed for the hospital specific cost-to-charge ratio utilized for the calculation of outlier payments and a deadline was established for receipt of the written request filing for outlier payments.

Act 13 also directed the Department of Health and Hospitals to pay enhanced outlier reimbursements to certain hospitals meeting specific criteria set forth by the Department and approved by the Centers for Medicare and Medicaid Services. In accordance with the Act 13 directive, the department promulgated an Emergency Rule developing a payment methodology for enhanced outlier reimbursements (*Louisiana Register, Volume 28, Number 9*). The department adopted an Emergency Rule to repeal the September 7, 2002 Emergency Rule and to amend the February 20, 1996 Rule to provide enhanced outlier reimbursements to qualifying hospitals for state fiscal year 2002-2003.

This Emergency Rule is being promulgated to continue the provisions contained in the January 1, 2003 Rule. This action is being taken to protect the health and welfare of Medicaid eligible children by encouraging the continued participation of hospitals that furnish neonatal and pediatric intensive care services in the Medicaid Program.

Emergency Rule

Effective for dates of service on or after May 2, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the September 7, 2002 Emergency Rule and amends the February 20, 1996 Rule to provide enhanced outlier reimbursements to qualifying hospitals for state fiscal year 2002-2003. A qualifying hospital is defined as a hospital whose losses calculated using the outlier payment methodology effective July 1, 2002 are at least 25 percent of the amount calculated using the outlier payment methodology in effect as of June 30, 2002. The calculation will be based on actual submitted claims for dates of service on and after January 1, 2003 that qualify for outlier payments. A one time lump sum payment will be issued which is equal to the product of each qualifying hospital's pro rata share of outlier losses and all qualifying hospitals' outlier losses multiplied by the amount appropriated for payment of enhanced outlier reimbursements for SFY 2002-2003.

Implementation of this Emergency Rule shall be delayed until January 31, 2003 and will 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 at 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

0304#073

DECLARATION OF EMERGENCY

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

Private HospitalsC Inpatient Services Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2002-2003 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule in June of 1994 which established the prospective reimbursement methodology for inpatient services provided in private (non-state) acute care general hospitals (*Louisiana Register, Volume 20, Number 6*). 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*). This Rule was later amended by a Rule adopted in May of 1999 which discontinued 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*).

As a result of a budgetary shortfall, the bureau has determined that it is necessary to reduce the reimbursement paid for inpatient services rendered in private (non-state) acute hospitals, including long term hospitals, to 85 percent of the per diem rates (a 15 percent reduction) in effect on March 31, 2003. Small rural hospitals as defined by the Rural Hospital Preservation Act (R.S. 40:1300.143) shall be excluded from this reimbursement reduction. This action is being taken in order to avoid a budget deficit in the medical

assistance programs. Taking the 15 percent reduction in per diem rates in state fiscal year 2002-2003 into consideration, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private (non-state) inpatient hospital services under the State Plan are available at least to the extent that they are available to the general population in the state. It is estimated that implementation of this Emergency Rule will reduce expenditures for private hospital inpatient services by approximately \$5,372,551 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on or after April 1, 2003 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement paid for inpatient services rendered in private (non-state) acute hospitals, including long term hospitals, to 85 percent of the per diem rates (a 15 percent reduction) in effect on March 31, 2003. Small rural hospitals as defined by the Rural Hospital Preservation Act (R.S. 40:1300.143) shall be excluded from this reimbursement reduction.

Implementation of the provisions of this Rule will be delayed until April 30, 2003 and 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 at the 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

0304#008

DECLARATION OF EMERGENCY

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

Private Inpatient Psychiatric Services Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2002-2003 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall

be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule which established the prospective reimbursement methodology for inpatient psychiatric hospital services provided in either a free-standing psychiatric hospital or distinct part psychiatric unit of an acute care general hospital (*Louisiana Register, Volume 19, Number 6*). This Rule was subsequently amended by a Rule adopted to discontinue the practice of automatically applying an inflation adjustment to the reimbursement rates for inpatient psychiatric services in those years when the rates are not rebased (*Louisiana Register, Volume 25, Number 5*).

As a result of a budgetary shortfall, the bureau has determined that it is necessary to reduce the reimbursement paid for private inpatient psychiatric services to 85 percent of the per diem rates (a 15 percent reduction) in effect on March 31, 2003. Small rural hospitals as defined by the Rural Hospital Preservation Act (R.S. 40:1300.143) shall be excluded from this reimbursement reduction. This action is being taken in order to avoid a budget deficit in the medical assistance programs. Taking this 15 percent reduction in per diem rates in state fiscal year 2002-2003 into consideration, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that inpatient psychiatric services under the state plan are available at least to the extent that they are available to the general population in the state. It is estimated that implementation of this Emergency Rule will reduce expenditures for private inpatient psychiatric services by approximately \$287,537 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on or after April 1, 2003 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement paid for private inpatient psychiatric services to 85 percent of the per diem rates (a 15 percent reduction) in effect on March 31, 2003. Small rural hospitals as defined by the Rural Hospital Preservation Act (R.S. 40:1300.143) shall be excluded from this reimbursement reduction.

Implementation of the provisions of this Rule will be delayed until April 30, 2003 and 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 at the Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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

0304#011

DECLARATION OF EMERGENCY

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

Private Intermediate Care Facilities for the Mentally RetardedC Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by the 2002-2003 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R. S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule on October 20, 1989 which established the reimbursement methodology for private intermediate care facilities for the mentally retarded (ICFs-MR) (*Louisiana Register, Volume 15, Number 10*). This Rule was subsequently amended by 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 6*).

As a result of a budgetary shortfall, the bureau has determined that it is necessary to reduce the reimbursement paid to private for profit and non-profit intermediate care facilities for the mentally retarded (ICF-MR). This action is being taken in order to avoid a budget deficit in the medical assistance programs. Taking into consideration the reduction in per diem rates in state fiscal year 2002-2003, the department has carefully reviewed the proposed rates and is satisfied that they are consistent with efficiency, economy and quality of care and are sufficient to enlist enough providers so that private ICF-MR services under the state plan are available at least to the extent that they are available to the general population in the state. It is estimated that implementation of this Emergency Rule will reduce expenditures for private intermediate care facility services for the mentally retarded by approximately \$2,831,404 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on or after April 1, 2003 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the

reimbursement paid to private for profit intermediate care facilities for the mentally retarded (ICF-MR) to 85 percent of the per diem rates (a 15 percent reduction) in effect on March 31, 2003 and for private non-profit intermediate care facilities for the mentally retarded to 92.5 percent of the per diem rates (a 7.5 percent reduction) in effect on March 31, 2003. For the purpose of this Emergency Rule, a private non-profit ICF-MR is a facility that has been granted an exemption from federal taxation under 501(a) of the Internal Revenue Code.

Implementation of the provisions of this Rule will be delayed until April 30, 2003 and 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 at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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

0304#007

DECLARATION OF EMERGENCY

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

Private Nursing Facilities Reimbursement Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq.

Emergency Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing published an emergency rule reducing each private nursing facility's per diem case mix rate by \$37.10, an average of 46.87 percent per facility effective for dates of service March 1, 2003 and thereafter (*Louisiana Register, Volume 29, Number 3*). The department has now determined that it is necessary to rescind this Emergency Rule and notification is provided to interested persons through this medium.

David W. Hood
Secretary

0304#040

DECLARATION OF EMERGENCY

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

Professional Services Program Antibiotic Injections Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of 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 final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses professional services in accordance with an established fee schedule for Physicians= Current Procedural Terminology (CPT) codes, locally assigned codes and Health Care Financing Administration Common Procedure Codes (HCPCs). Reimbursement for these services is a flat fee established by the bureau minus the amount which any third party coverage would pay.

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau promulgated a rule to increase the reimbursement paid to physicians by restoring a prior 7 percent reduction to the fees for specific procedure codes and increasing the reimbursement for other designated procedure codes (*Louisiana Register, Volume 27, Number 5*). After consultations with providers around the state, the bureau increased the reimbursement rate for antibiotic injections rendered to Medicaid recipients within a specific age range (*Louisiana Register, Volume 29, Number 1*). This Emergency Rule is being promulgated to continue the provisions contained in the January 1, 2003 Rule. This action is being taken to protect the health and welfare of Medicaid recipients within the specified age range by ensuring continued access to services and encouraging continued provider participation in the Medicaid Program.

Emergency Rule

Effective for dates of service on or after May 2, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for antibiotic injections administered to Medicaid recipients up to the age of 21. Antibiotic IM injections shall be reimbursed at a flat rate of \$22.

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

Interested persons may submit written comments to Ben A. Bearden at 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

0304#048

DECLARATION OF EMERGENCY

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

Professional Services Program
Orthopedic Services
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of 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 final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses professional services in accordance with an established fee schedule for Physicians' Current Procedural Terminology (CPT) codes, locally assigned codes and Health Care Financing Administration Common Procedure Codes (HCPCs). Reimbursement for these services is a flat fee established by the Bureau minus the amount which any third party coverage would pay.

As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the bureau promulgated a rule to increase the reimbursement paid to physicians by restoring a prior 7 percent reduction to the fees for specific procedure codes and increasing the reimbursement for other designated procedure codes (*Louisiana Register, Volume 27, Number 5*). After consultations with orthopedic physicians around the state, the bureau increased the reimbursement rate for designated CPT orthopedic procedure codes for services rendered to Medicaid recipients (*Louisiana Register, Volume 29, Number 1*). This Emergency Rule is being promulgated to continue the provisions contained in the January 1, 2003 Emergency Rule. This action is being taken to protect the health and welfare of Medicaid recipients by ensuring continued access to orthopedic services and encouraging continued physician participation in the Medicaid Program.

Emergency Rule

Effective for dates of service on or after May 2, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement paid to physicians for orthopedic services provided to Medicaid recipients. Physicians' Current Procedural Terminology (CPT) orthopedic procedure codes

(20000-29898) shall be reimbursed at 80 percent of the Medicare Region 99 allowable for 2002, except for those procedure codes on file that are in non-pay status.

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

Interested persons may submit written comments to Ben A. Bearden at 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

0304#050

DECLARATION OF EMERGENCY

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

Professional Services Program
Physician Services
Reimbursement Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of 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 reimburses professional services in accordance with an established fee schedule for Physicians' Current Procedural Terminology (CPT) codes, locally assigned codes and Health Care Financing Administration Common Procedure Codes (HCPCs). Reimbursement for these services is a flat fee established by the bureau minus the amount which any third party coverage would pay.

The bureau promulgated an Emergency Rule in February 2000 reducing the reimbursement paid to physicians by 7 percent for specific procedure codes, including surgery procedure codes, as a result of a budgetary shortfall (*Louisiana Register, Volume 26, Number 2*). As a result of the allocation of additional funds by the Legislature during the 2000 Second Extraordinary Session, the Bureau subsequently promulgated a rule restoring the 7 percent reduction to the fees paid to physicians for specific procedure codes and increasing the reimbursement for other designated procedure codes (*Louisiana Register, Volume 27, Number 5*).

After consultations with pediatric surgeons around the state, the bureau increased the reimbursement rate for designated CPT surgical procedure codes for services rendered to recipients within a specific age range (*Louisiana Register, Volume 28, Number 12*). This Emergency Rule is being promulgated to continue the provisions contained in

the January 1, 2003 Rule. This action is being taken to protect the health and welfare of Medicaid recipients within the specified age range by ensuring continued access to surgery services and encouraging continued physician participation in the Medicaid Program.

Emergency Rule

Effective for dates of service on or after May 2, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for selected surgery services provided by the primary servicing physician to Medicaid recipients from birth through 10 years of age. Physicians' Current Procedural Terminology (CPT) surgical procedure codes (10021-69990) shall be reimbursed at 100 percent of the Medicare Region 99 allowable for 2002, except for procedure codes on file that are in non-pay status and procedure codes for newborn circumcisions (54150) and (54160).

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

Interested persons may submit written comments to Ben A. Bearden at 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

0304#072

DECLARATION OF EMERGENCY

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

Public HospitalsC Inpatient Reimbursement
MethodologyC Target Rate per Discharge

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of 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 final rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule in July of 1983 which established a reimbursement methodology for inpatient services provided in acute care hospitals (*Louisiana Register, Volume 9, Number 7*). Inpatient hospital services were reimbursed in accordance with the Medicare reimbursement principles with a target rate set based on the cost per discharge for each hospital, except that the base year to be used in determining the target rate was the fiscal year ending on September 30, 1981 through September 29, 1982. In a rule adopted in October of 1984 (*Louisiana Register, Volume 10, Number 10*), separate per diem limitations were established for neonatal and

pediatric intensive care and burn units using the same base period as the target rate per discharge calculation. A rule was adopted in October 1992, which provided that inpatient hospital services to children under one year of age shall be reimbursed as pass-through costs and shall not be subject to per discharge or per diem limits applied to other inpatient hospital services. The reimbursement methodology was subsequently amended in a rule adopted in June of 1994 which discontinued this reimbursement methodology for all nonstate hospitals and established a prospective payment methodology for nonstate hospitals (*Louisiana Register, Volume 20, Number 6*). The Department rebased the target rate per discharge amounts and per diem limitations for carve out specialty units in state owned or operated hospitals utilizing the amounts calculated per the cost report for the fiscal year ending either on June 30, 2001 or June 30, 2002 (*Louisiana Register, Volume 29, Number 1*). This Emergency Rule is being promulgated to continue the provisions contained in the January 1, 2003 Rule. This action is being taken to enhance federal revenues in the Medicaid Program.

Emergency Rule

Effective May 2, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing rebases the target rate per discharge amounts and per diem limitations for carve out specialty units in state owned or operated hospitals utilizing the amounts calculated per the cost report for the fiscal year ending either on June 30, 2001 or June 30, 2002. Allowable malpractice costs shall be included in the target rate per discharge and per diem limitations. Data from the 12 month cost reporting period of the base year shall be extracted to determine each hospital's cost per discharge or per day. Inpatient hospital services provided to children under one year of age in state owned or operated hospitals shall continue to be reimbursed as pass-through costs and shall not be subject to per discharge or per diem limits applied to other inpatient hospital services.

Implementation of the provisions 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 at 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

0304#041

DECLARATION OF EMERGENCY

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

Public Nursing FacilitiesC Reimbursement Methodology
(LAC 50:VII.1309)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance

Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of 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.

Act 694 of the 2001 Regular Session of the Louisiana Legislature mandated that the Department of Health and Hospitals establish a case-mix reimbursement methodology for nursing homes. In accordance with Act 694, the Bureau repealed the June 20, 1984 Rule and established a new reimbursement methodology based on a case-mix price-based reimbursement system for private and public nursing facilities (*Louisiana Register, Volume 28, Number 8*). The Department subsequently promulgated an Emergency Rule revising the reimbursement methodology for state-operated nursing facilities in order to reimburse these facilities in accordance with the Medicare upper payment limit (*Louisiana Register, Volume 28, Number 11*). The bureau amended the provisions contained in the August 20, 2002 Rule governing the reimbursement methodology for public nursing facilities. In addition the bureau repealed the October 14, 2002 Emergency Rule (*Louisiana Register, Volume 29, Number 1*).

This action is being taken to enhance federal revenue. This Emergency Rule is being promulgated to continue the provisions contained in the January 1, 2003 Rule.

Effective for dates of services on or after May 2, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the October 14, 2002 Emergency Rule and amends the provisions contained in the August 20, 2002 Rule governing the reimbursement methodology for public nursing facilities.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1309. State-Owned or Operated and Nonstate

Government-Owned or Operated Facilities

A. Nonstate government-owned or operated nursing facilities will be paid a prospective reimbursement rate. Each facility will receive a Medicaid base rate calculated in accordance with other sections of this rule. Nonstate government-owned or operated nursing facilities may also receive a supplemental Medicaid payment on a quarterly basis. The aggregate supplemental payments for these facilities, calculated on a quarterly basis, will be the state's best estimate of what nonstate government-owned or operated facilities would be paid under Medicare's prospective payment system for skilled nursing facilities less the aggregate Medicaid base payments for these facilities. The acuity measurements used in the supplemental Medicaid payment calculations will be the acuity of each facility's Medicaid residents, as determined under Medicare's 44 RUG classification methodology. Adjustments to the aggregate supplemental Medicaid payments will be made to account for differences in coverage between the Medicare and Medicaid programs.

B. State-owned or operated nursing facilities will be paid a prospective reimbursement rate. The payment rate for each of these facilities will be calculated on a quarterly basis and

shall be the greater of the state's best estimate of what the facility would be paid under Medicare prospective payment system for skilled nursing facilities or the nursing facility's allowable cost from the most recent filed Medicaid cost report trended forward to the midpoint of the rate year using the index factor. The acuity measurements used in the quarterly rate calculations will be the acuity of each facility's Medicaid residents, as determined under Medicare's 44 RUG classification methodology. Adjustments to these gross Medicare prospective payment rates will be made to account for differences in coverage between the Medicare and Medicaid programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1475 (June 2002), repromulgated LR 28:1793 (August 2002), amended LR 29:

Implementation of the provisions of this Emergency Rule shall be delayed until January 31, 2003 and will 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 at Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 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

0304#071

DECLARATION OF EMERGENCY

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

Rehabilitation Services
Reimbursement Fee Increase

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Emergency Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated 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 final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for rehabilitation services under the Medicaid Program. Rehabilitation services include physical, occupational and speech therapies. Reimbursement is available for these services through outpatient hospital, home health, rehabilitation center and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) health services. The Bureau also adopted a rule establishing the reimbursement methodology for rehabilitation services rendered in rehabilitation centers and outpatient hospital

settings in June of 1997 (*Louisiana Register, Volume 23, Number 6*). The bureau adopted a subsequent rule in May of 2001 to establish the reimbursement methodology for rehabilitation services rendered by home health agencies (*Louisiana Register, Volume 27, Number 5*). Reimbursement for these services is a flat fee established by the bureau minus the amount that any third party coverage would pay.

Act 13 of the 2002 Regular Session of the Louisiana Legislature directed the department to increase the reimbursement for physical therapy, occupational therapy, and speech/language and hearing therapy services provided to children under three years of age. In compliance with the Appropriation Bill and as a result of the allocation of additional funds by the Legislature, the bureau promulgated an emergency rule that increased the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of three, regardless of the type of provider performing the services (*Louisiana Register, Volume 28, Number 7*). The bureau now proposes to increase the reimbursement for additional rehabilitation services provided by outpatient hospitals and home health agencies. This action is being taken to protect the health and welfare of Medicaid recipients under the age of three and to ensure access to rehabilitation services by encouraging the participation of rehabilitation providers in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures for rehabilitation services by approximately \$319,114 for state fiscal year 2002-2003.

Emergency Rule

Effective for dates of service on or after April 21, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the June 20, 1997 and May 20, 2001 rules governing the reimbursement methodology for rehabilitation services provided by outpatient hospitals and home health agencies to increase the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of 3. The new reimbursement rates for rehabilitation services are as follows.

Home Health Agencies and Outpatient Hospitals	
Procedure Name	New Rate
Physical Therapy, one modality	\$37.00
Physical Therapy, 2 or more modalities	\$56.00
P.T. with 1 or more procedures, and/or modalities, 15 minutes	\$18.50
P.T. with procedures, 30 minutes	\$37.00
P.T. with procedures, 75 minutes	\$92.50
Occupational Therapy, 15 minutes	\$15.00
Occupational Therapy, 30 minutes	\$30.00
Speech and Hearing Therapy, 15 minutes	\$14.00
Speech and Hearing Therapy, 30 minutes	\$28.00
Speech and Hearing Therapy, 45 minutes	\$42.00
Speech and Hearing Therapy, 60 minutes	\$56.00

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

Interested persons may submit written comments to Ben A. Bearden at the 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

0304#038

DECLARATION OF EMERGENCY

**Department of Natural Resources
Office of the Secretary**

**CWPPRA Oyster Lease Acquisition Program
(LAC 43:I.841-849)**

In accordance with emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and in accordance with R.S. 56:432.1, the Department of Natural Resources declares an emergency implementation of Rules regarding the CWPPRA Oyster Lease Acquisition Program. These Rules are adopted and intended to implement federal plans, programs and requirements of the task force established by CWPPRA, and shall be so interpreted.

The Declaration of Emergency will become effective on April 20, 2003, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule.

Title 43

NATURAL RESOURCES

Part I. Office of the Secretary

Subpart 1. General

Chapter 8. Coastal Regulations

Subchapter B. CWPPRA Oyster Lease Acquisition Program

§841. Purpose

A. These special Rules are adopted pursuant to R.S. 56:432.1 to provide for the acquisition of oyster leases within the projected impact area of a coastal restoration project. These Rules supercede the provisions of Subchapter B insofar as Subchapter B may otherwise apply to oyster leases included within the scope of these Rules.

B. Pursuant to R.S. 56:432.1.E, these Rules are adopted and intended to implement federal plans, programs and requirements of the task force established by CWPPRA, and shall be so interpreted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 29:

§842. Definitions

Department C the Louisiana Department of Natural Resources, its secretary, or the secretary's designee.

DWFC the Louisiana Department of Wildlife and Fisheries, its secretary, or the secretary's designee.

Projected Impact Area C the projected impact area of a coastal restoration project included within a public program officially proposed by the appropriate local, state or federal agency, as determined pursuant to R.S.56:428.1.

Affected Lease—a current oyster lease or a portion thereof identified by the Department from records maintained by DWF or from other information and determined by the Department to be located in whole or in part within a projected impact area.

Leaseholder—the lessee of an oyster lease granted by DWF pursuant to R.S.56:425 et seq., as appears on records provided by and maintained by DWF.

CWPPRA—the Coastal Wetlands Planning Protection and Restoration Act, Public Law 101-646, as amended.

Lead Agency—the lead agency designated by the task force to be the federal sponsoring agency for a CWPPRA project or program.

Task Force—the task force established pursuant to CWPPRA.

Secretary—secretary of DNR or the secretary's designee.

Closing Date—the date of execution of the purchase agreement and payment of the purchase price.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 29:

§843. Implementation of Acquisition Program

A. The secretary, in consultation with the lead agency, will delineate the projected impact area of a CWPPRA project. The delineation may be changed as additional information becomes available.

B. The secretary shall make a reasonable effort to provide notice of the project-specific acquisition program to all leaseholders of affected leases. Participation in the program by a leaseholder is voluntary.

C. The notice to leaseholders shall include at least the following:

1. a description and map of the projected impact area;
2. a copy of these regulations;
3. a statement informing the leaseholder of the state's intention to purchase the affected lease on a voluntary basis pursuant to these regulations;
4. a request that the leaseholder submit specific documentary and other information relevant to a determination of a purchase price for the subject affected lease in accordance with these regulations;
5. a response form to be completed and returned to the Department, which form shall provide information confirming the leaseholder's mailing address and the intention of the leaseholder to participate in the voluntary acquisition program or not, subject to the leaseholder's right to decline any offered purchase price. The form shall include an authorization granting the department and its contractors the right to enter the affected lease for the purpose of surveying and making an assessment of the affected lease.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 29:

§845. Appraisal

A. The just compensation to be offered to the leaseholder of an affected lease shall be determined by an appraiser selected by the secretary.

B. Just compensation to the leaseholder for acquisition of the lease shall be an amount equal to the fair market value of the affected lease plus the fair market value of any marketable and seed oysters not reasonably removable from

the affected lease within the time allowed, all as determined by the appraiser according to the procedure hereinafter provided.

C. Estimate of fair market value of affected lease

1. The appraiser shall estimate the fair market value of the affected lease by taking into account comparable sales of other leases, if sufficient reliable information is available to the appraiser to make such estimate according to accepted appraisal methods.

2. Alternatively, or in conjunction with lease sale data, the appraiser may estimate the fair market value of the affected lease by calculating the present value of estimated future net income from the lease during the remainder of the current lease term, beginning with the next succeeding full calendar year, in the following manner.

a. Estimated future production expenses shall be deducted from estimated future gross income from the affected lease to determine estimated future net income, all on an annual basis, then discounted to present value in accordance with Subsection D.

b. Future gross income from the affected lease may be estimated by the appraiser based on adequate reliable documentation submitted by the leaseholder, such as sales records, income tax returns, and production reports. In the absence of such documentation, or in conjunction therewith, the appraiser may use whatever information may be available from other sources, both public and private, to estimate the average productivity of oyster reefs in the area of the affected lease on a sacks of marketable oysters per reef acre basis, and the market price thereof, then apply such estimate to the reef area of the affected lease.

c. Future production expenses applicable to the affected lease may be estimated by the appraiser based on adequate reliable documentation submitted by the leaseholder, such as accounting records, invoices, cancelled checks, payroll records, third party records, income tax returns, and reports. Allowable expenses chargeable to the affected lease shall include labor (including a salary allowance for the owner), fuel, maintenance and repairs, supplies, rent, vessel and equipment depreciation, insurance and any other items of costs determined by the appraiser to be applicable to the affected lease according to accepted appraisal methods. In the absence of documentation submitted by the leaseholder, or in conjunction therewith, the appraiser may use whatever information may be available from other sources, both public and private, to estimate the average production expenses, present and future, of oyster reefs in the area of the affected lease on a per sack of marketable oysters basis and apply such estimates to the affected lease.

d. The estimated annual net income from the lease for each full calendar year of the lease term remaining after the year of purchase, shall be discounted, at a rate intended to reflect the expected rate of return on investment in the Louisiana oyster industry or a similar industry with equivalent risk, to determine the present value of such income as of the first day of the calendar year following the year of purchase. The discount rate will be developed by an independent financial analyst in concurrence with the appraiser after researching the market and analyzing the individual oyster lease being evaluated. Where there is insufficient data in the market to derive a discount rate,

published rates developed by independent financial analysts may be used.

e. Information submitted by the leaseholder may include affidavits to explain or supplement other documents.

D. Estimate of fair market value of marketable and seed oysters not reasonably removable The leaseholder may be allowed a sufficient reasonable period of time after the closing date in which to remove marketable and seed oysters from the affected lease, at his sole risk and expense, and no compensation shall be allowed for oysters so removable. However, if such period of time is not allowed, the appraiser shall estimate the fair market value of the marketable and seed oysters not reasonably removable by the leaseholder after the closing date and before the date the leaseholder is required to vacate the lease, and the just compensation paid to the leaseholder shall be increased by the amount of such fair market value.

E. In making the appraisal, the appraiser may rely on information given by an oyster biologist selected by the secretary to assist the appraiser.

F. At least 90 days prior to the closing date, the leaseholder of an affected lease shall be notified in writing of the proposed just compensation to be paid for the affected lease, and the basis thereof. The leaseholder may submit to the secretary, within 30 days of receipt of the notice , in writing, any information believed to warrant an increase in the amount of just compensation offered. The secretary may, on the basis of all information available, thereafter modify or affirm the original offer. An offer may be withdrawn at any time prior to closing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 29:

§847. Purchase Agreement and Release

A. In consideration for payment of just compensation for an affected lease, the leaseholder and any person holding a property interest in an affected lease shall execute a purchase agreement with the state of Louisiana and a receipt, release, indemnity and hold harmless agreement in favor of the United States of America, including the U.S. Army Corps of Engineers, and the lead agency, and the State of Louisiana, including the Louisiana Department of Natural Resources and the Louisiana Department of Wildlife and Fisheries, indicating that full and fair compensation has been made in complete satisfaction of all claims against the state and the United States of America, related to past, present or future damages to the affected lease, and related losses and expenses, including all claims in tort, contract, or inverse condemnation and/or under any other applicable theory of recovery, including, but not limited to, 28 U.S.C. §1497.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 29:

§849. Funding

A. The Department shall have no duty to implement oyster lease acquisitions for any coastal restoration project in the absence of appropriate funding arrangements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:432.1.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 29:

Jack C. Caldwell
Secretary

0304#068

DECLARATION OF EMERGENCY

**Department of Revenue
Policy Services Division**

**Various Exemptions from Sales and Use Tax
(LAC 61:I.4401)**

The Department of Revenue, Policy Services Division, is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to clarify what "food for home consumption" means.

This Emergency Rule is necessary for taxpayers to understand what food items are taxable and which are not so that they may properly apply Article VII, Section 2.2 of the Constitution of Louisiana, which was effective January 1, 2003.

This Emergency Rule is effective April 10, 2003, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the permanent rule, whichever occurs first.

Title 61

REVENUE AND TAXATION

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

Chapter 44. Sales and Use Tax Exemptions

§4401. Various Exemptions from the Tax

A. - F. ...

1. R.S. 47:305(D) provides an exemption from state sales tax upon the sale at retail of food sold for preparation and consumption in the home as well as for some other expressed types of food sales. For this purpose, meat, fish, milk, butter, eggs, bread, vegetables, fruit and their juices, canned goods, oleo, coffee and its substitutes, soft drinks, tea, cocoa and products of these items, bakery products, candy, condiments, relishes and spreads, are all considered food items. Items such as flour, sugar, salt, spices, shortening, flavoring and oil that are generally purchased for use as ingredients in other food items constitute food. Items considered to be food are not limited to the examples set forth above. The listing is not all inclusive.

2. Alcoholic beverages, malt beverages and beer; tobacco products; distilled water, water in bottles, carbonated water, ice and "dry ice" are not considered to be food. Medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts are also not considered to be food.

Dietary Supplements Any product, other than tobacco, intended to supplement the diet that:

i. contains one or more of the following dietary ingredients:

- (a). a vitamin;
- (b). a mineral;

- (c). an herb or other botanical;
- (d). an amino acid;
- (e). a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or
- (f). a concentrate, metabolite, constituent, extract, or combination of any ingredients described in i-v above; and

ii. is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

iii. is required to be labeled as a dietary supplement, which is identifiable by the fact that the product contains a "Supplemental Facts" box on the label.

3. "Food for home consumption" as used in La. R.S. 47:305(D)(1)(n) does not include "prepared food."

Prepared Food

i. food sold in a heated state or heated by the seller;

ii. two or more food ingredients mixed or combined by the seller for sale as a single item, which does not include food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and food containing these raw animal foods requiring cooking by the consumer in order to prevent food borne illnesses; or

iii. food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.

4. Notwithstanding language to the contrary in Paragraph F.3, bakery products, dairy products, soft drinks, fresh fruits and vegetables, and package foods requiring further preparation by the purchaser are considered "food for home consumption" unless sold by an establishment listed in R.S. 47:305(D)(3). However, soft drinks that are sold with a cup, glass or straw are not considered "food for home consumption."

5. Sales of meals furnished to the staff and students of educational institutions including kindergartens; the staff and patients of hospitals; the staff, inmates and patients of mental institutions; boarders of rooming houses; and occasional meals furnished in connection with or by educational, religious or medical organizations are exempt from the taxes imposed by this Chapter, provided the meals are consumed on the premises where purchased. Sales of food by any of these institutions or organizations in facilities open to outsiders or to the general public are not exempt from the taxes imposed by this Chapter, and tax should be charged on the entire gross receipts, rather than just the receipts from the outsiders or the general public.

6. Facilities for the consumption of food on the premises as discussed in R.S. 47:305(D)(3) include not only inside facilities, but also outside facilities, including parking facilities.

7. Purchases of food items by stores, institutions and organizations can be purchased without payment of the advance sales tax provided the ultimate retail sale or consumption of the food is exempt from taxes imposed by

this Chapter. Regardless of the type of purchaser, if a majority of the food purchased and disposed is taxable under the established rules, advance sales tax must be paid by the purchaser.

G. - J. ...

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 29:

Raymond E. Tangney
Senior Policy Consultant

0304#060

DECLARATION OF EMERGENCY

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

Child Care Assistance ProgramC Increased Activity
Hours and Adjustment of Agency Payments
(LAC 67:III.5103 and 5109)

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 LAC 67:III, Subpart 12, effective April 1, 2003. This Rule shall remain in effect for a period of 120 days.

The number of low-income participants served by the Child Care Assistance Program (CCAP) has increased dramatically and the cost of servicing these customers has increased proportionately. Therefore, to ensure that continued CCAP services are available and in order to avoid severe budget deficits and the abrupt closure of the entire Child Care Assistance Program (CCAP), the agency shall decrease the percentage of child care cost paid for by the agency and increase the number of required activity hours for parents receiving low-income child care. Failure to effect these changes may jeopardize the safety and well being of the children served through CCAP and result in job loss for some parents who may be forced to quit working because of lack of child care.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 12. Child Care Assistance Program

Chapter 51. Child Care Assistance

Subchapter B. Child Care Assistance Program

§5103. Conditions of Eligibility

A. ...

B. Low-income families not receiving FITAP cash assistance, including former FITAP recipients who are given priority consideration, must meet the following eligibility criteria:

1. - 3. ...

4. Effective September 1, 2002, unless disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, Veteran's Administration Disability benefits for a disability of at least

70 percent, or unless disabled and unable to care for his/her child(ren) as verified by a doctor's statement or by worker determination, the TEMP must be:

- a. employed a minimum average of 25 hours per week effective April 1, 2003, and all countable work hours must be paid at least at the Federal minimum hourly wage; or
- b. attending a job training or educational program that is legally authorized by the state for a minimum average of, effective April 1, 2003, 25 hours per week (attendance at a job training or educational program must be verified, including the expected date of completion); or
- c. engaged in some combination of employment which is paid at least at the Federal minimum hourly wage, or job training, or education as defined in §5103.B.4.b that averages, effective April 1, 2003, at least 25 hours per week.
- d. Exception: a household in which all of the members described in §5103.B.4 meet the disability criteria is not eligible for child care assistance unless one of those

members meets, effective April 1, 2003, the required minimum average of 25 activity hours per week.

B.5. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444(December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:

§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. Effective April 1, 2003, the agency's percentage of payments for Low-Income Child Care cases is adjusted and reflected in the following tables.

**Sliding Fee Scale for Child Care Assistance Recipients
Effective March 1, 2002 - 75 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	70%
	969 - 1535	1220 - 1908	1472 - 2281	1724 - 2654	1975 - 3027	50%
	1536 - 2101	1909 - 2596	2282 - 3090	2655 - 3585	3028 - 4079	30%
	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	70%
	2227 - 3199	2479 - 3372	2730 - 3543	2982 - 3716	3234 - 3888	50%
	3200 - 4172	3373 - 4265	3544 - 4357	3717 - 4450	3889 - 4543	30%
	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	70%
	3485 - 4060	3737 - 4232	3989 - 4405	4240 - 4577	4492 - 4749	50%
	4061 - 4636	4233 - 4728	4406 - 4821	4578 - 4914	4750 - 5006	30%
	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		70%
	4744 - 4921	4995 - 5093	5247 - 5266			50%
	4922 - 5099	5094 - 5192	5267 - 5285			30%
	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 28:1491 (June 2002), LR 29:

Gwendolyn P. Hamilton
Secretary

0304#005

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Food Stamp Program Restoration of Alien Eligibility
(LAC 67:III.1932)

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 LAC 67:III, Subpart 3, effective April 1, 2003. This Rule shall remain in effect for a period of 120 days.

Pursuant to Public Law 107-171, The Food Stamp Reauthorization Act of 2002, the agency is amending §1932 to comply with mandates issued by the United States Department of Agriculture, Food and Nutrition Service. P.L. 107-171, also known as the 2002 Farm Bill, mandates restoration of food stamp eligibility to legal immigrants who have lived in the United States as a qualified alien for five years or longer.

Emergency action in this matter is necessary as failure to promulgate the rule in a timely manner could result in the imposition of sanctions or penalties by the USDA, Food and Nutrition Service, the governing authority of the Food Stamp Program in Louisiana. A Notice of Intent concerning this rule has been published in the January issue of the *Louisiana Register* and a Final Rule is expected to be published in May 2003.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter B. Application Processing

§1932. Time Limitations for Certain Aliens

A. ...

B. The following qualified aliens are eligible for an unlimited period of time:

1. - 6. ...

7. effective April 1, 2003, individuals who have been lawful, permanent residents or otherwise qualified aliens for at least five years beginning on the date the immigrant was designated as a qualified alien by the Immigration and Naturalization Service.

AUTHORITY NOTE: Promulgated in accordance with P. L. 104-193, P. L. 105-33, P. L. 105-185, and P.L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:711(April 1999), amended LR 29:

Gwendolyn P. Hamilton
Secretary

0304#006

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Repeal of Refugee Cash Assistance Program
(LAC 67:III.3501 and 3701-3710)

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 repeal Title 67, Part III, Chapters 37 and 39, effective May 1, 2003. This Emergency Rule will remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule of January 1, 2003, 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 May 2003).

Pursuant to 45 CFR Part 400, the Office of Refugee Resettlement has granted states the option of providing Refugee Cash Assistance services through a public/private partnership. The Department of Social Services has opted to provide services for RCA through a public/private partnership whereby the state will contract with refugee resettlement agencies that will provide refugee cash assistance benefits. The new program, Public Private Partnership/Refugee Cash Assistance Program, will be administered by the Office of Community Services (OCS) through contracts with various entities. OCS will promulgate rules to establish regulations governing the program under Title 67, Part V, of the Louisiana Administrative Code effective January 1, 2003. In order to prevent the duplication of services and conflicting eligibility requirements that could result in federal penalties and sanctions, the Office of Family Support will no longer administer the program and will therefore repeal Part III, Chapters 35 and 37, the Refugee Cash Assistance Program effective January 1, 2003.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Chapter 35. Administration

§3501. Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with applicable sections of 45 CFR.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:1226 (December 1991), repealed LR 29:

Chapter 37. Application, Eligibility and Furnishing Assistance

Subchapter A. Coverage and Conditions of Eligibility

§3701. Eligibility Determination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400(E), R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998), repealed LR 29:

§3703. Eligibility Periods

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.202.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:953 (October 1991), LR 18:22 (January 1992), repealed LR 29:

§3704. Application Time Limit and Initial Payment

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998), repealed LR 29:

§3705. Coverage and Conditions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.62(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:401 (May 1984), repealed LR 24:353 (February 1998).

§3707. Resources

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.61.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:354 (February 1998), repealed LR 29:

§3708. Income

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.61.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:354 (February 1998), repealed LR 29:

§3709. Ineligibility Based on Lump Sum Income

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.61.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:354 (February 1998), repealed LR 29:

§3710. Earned Income Deductions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.61 and 233.20(a)(11).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:354 (February 1998), repealed LR 29:

Gwendolyn P. Hamilton
Secretary

0304#064

DECLARATION OF EMERGENCY

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

2003 Shrimping Season

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 outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicates that marketable shrimp, in sufficient quantities, are available for harvest, and a resolution adopted by the Wildlife and Fisheries Commission on February 6, 2003 which authorizes the Secretary of the Department of Wildlife and Fisheries to reopen any area closed to shrimping when the closure is no longer necessary, the Secretary hereby declares:

That the State Outside Waters from the Atchafalaya River Ship Channel at Eugene Island as delineated by the Channel Buoy line to the U.S. Coast Guard navigational light off the northwest shore of Caillou Boca at latitude 29E03'10" N and longitude 90E50'27" W, shall reopen to shrimping at 6:00 a.m., Friday, March 28, 2003.

According to recent shrimp samples taken by Department personnel, small white shrimp which occupied these waters from January through mid-March are no longer present in this area. Significant numbers of small white shrimp still remain in state outside waters west of the Atchafalaya River Ship Channel to the eastern shore of Freshwater Bayou, and this area will remain closed to shrimping until further notice.

James H. Jenkins, Jr.
Secretary

0304#003