

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Honey Testing and Sale (LAC 7:XXXV.141)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rule governing the testing and sale of honey in Louisiana. This Rule is 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 honey that are consistent with standards adopted by the FDA regarding chloramphenicol in foods. All honey 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, including bees (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, Canada, the United Kingdom, the European Union, and Japan have found chloramphenicol in honey imported from China. The department has found chloramphenicol in honey imported from Thailand. Preliminary test results from Canada indicate about 80 percent of the samples are positive for chloramphenicol. The possibility exists that other countries may export chloramphenicol-contaminated honey to the U.S.A., either by diversion of Chinese honey or their own use of chloramphenicol.

The sale of such honey in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to Chloramphenicol, a known health hazard. The sale, in Louisiana, of honey containing Chloramphenicol presents an imminent peril to the public's health, safety, and welfare. This peril can cause consumers to quit buying honey from any source, including Louisiana honey. If consumers cease to buy, or substantially reduce, their purchases of Louisiana honey then Louisiana honey producers will be faced with substantial economic losses. Any economic losses suffered by Louisiana's honey producers 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 these Emergency Rules are necessary to immediately implement testing of honey for Chloramphenicol, to provide for the sale of honey and products containing honey that are not contaminated with Chloramphenicol. This Rule becomes effective upon signature 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

§141. Chloramphenicol in Honey Prohibited Testing and Sale

A. Definitions

Food Producing Animals—both animals that are produced or used for food and animals, including bees, which produce material used as food.

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

Honey—any honey, whether raw or processed.

B. No *honey* or food containing *honey* may be held, offered or exposed for sale, or sold in Louisiana if such *honey* or food containing *honey* contains Chloramphenicol.

C. No *honey* 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*, including bees, 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 *honey* 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*, including bees 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*, including bees, in that location. Any such release shall be subject to promulgation in accordance with the Administrative Procedure Act.

E. *Honey* 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*, including bees, 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 *honey* that is in lots of fifty pounds or less;

ii. four samples are to be taken of *honey* that is in lots of fifty-one to one hundred pounds;

iii. twelve samples are to be taken of *honey* that is in lots of one hundred and one pounds up to fifty tons.

b. For *honey* in bulk wholesale containers, each sample shall be at least one pound or twelve fluid ounces and must be pulled at random throughout each lot.

c. For packaged *honey*, each sample shall be at least eight ounces in size and shall be taken at random throughout each lot.

d. If the *honey* to be sampled consists of packages of *honey* grouped together, but labeled under two or more trade or brand names, then the *honey* packaged under each trade or brand name shall be sampled separately. If the *honey* 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.

e. A composite of the samples shall not be made. All samples shall be delivered to the lab. Each sample shall be clearly identifiable as belonging to a specific group of *honey* and shall be tested individually.

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 *honey* up to and including eight ounces, use the entire sample. If *honey* sample includes more than one container, they shall be blended together. Divide the sample in half. Use half of the sample for the original analysis portion and retain the other half of the sample 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 above 1 ppb 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 it is located in a *geographic area* that the commissioner has declared to be a location where Chloramphenicol is being used on or found in *food producing animals* including bees, 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 *honey* or food containing *honey* 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 *honey*.

8. Upon the department's actual receipt of a copy of the certified test results and written documentation required to accompany the certified test results, the *honey* or food containing *honey* 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 of such *honey* or food containing *honey*, and be attached to the documentation submitted with every shipment sent to each location in Louisiana, or shall be immediately accessible to the department, upon request, from any such location.

F. Any person who is seeking to bring *honey*, or any food containing *honey*, that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such *honey* or food containing *honey* in Louisiana shall be responsible for having the *honey*, 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.

G. The commissioner may reject the test results for any *honey* 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.

H. If any certified test results are rejected by the commissioner then any person shipping or holding the *honey* or food containing *honey* will be notified immediately of such rejection and issued a stop-sale, hold or removal order by the commissioner. Thereafter, any such person shall abide by such order until the commissioner lifts the order in writing. Any such person may have the *honey* 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 *honey* is certified as being free of Chloramphenicol.

I. The department may inspect any *honey* and any food containing *honey*, found in Louisiana, and take samples for testing.

J. A stop-sale, hold or removal order, including a prohibition on disposal, may be placed on any *honey* or any food containing *honey* that does not meet the requirements of this Section. Any such order shall remain in place until lifted, in writing, by the commissioner.

K. The department may take physical possession and control of any *honey* or any food containing *honey* that violate the requirements of this Section if the commissioner finds that the *honey* or food containing *honey* 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.

L. 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* including bees, or in products from such animals, in certain *geographic area(s)*.

1. The *geographic area* or areas are:
 - a. the country of the People's Republic of China;
 - b. the country of Thailand.

2. All *honey* 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.

M. All records and information regarding the distribution, purchase and sale of *honey* or any food containing *honey* shall be maintained for two years and shall be open to inspection by the department.

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

O. The effective date of this Section is November 7, 2002.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 30:

Bob Odom
Commissioner

0310#004

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Chloramphenicol in Shrimp and Crawfish Testing, Sale, and Labeling (LAC 7:XXXV.137 and 139)

The Commissioner of Agriculture and Forestry hereby adopts the following Emergency Rules governing the testing and sale of shrimp and crawfish in Louisiana and the labeling of foreign shrimp and crawfish. 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 Louisiana Legislature, by SCR 13 of the 2002 Regular Session, has urged and requested that the Commissioner of Agriculture and Forestry require all shrimp and crawfish, prior to sale in Louisiana, meet standards relating to Chloramphenicol that are consistent with those standards promulgated by the United States Food and Drug Administration, (FDA). The Legislature has also urged and requested the commissioner to promulgate Rules and regulations necessary to implement the standards relating to Chloramphenicol in shrimp and crawfish that are consistent with those standards promulgated by the FDA, and which Rules and regulations require all shrimp and crawfish sold in Louisiana to meet the standards adopted by the commissioner, prior to sale.

Chloramphenicol is an antibiotic the FDA has restricted for use in humans only in those cases where other antibiotics or medicines have not been successful. The FDA has banned the use of Chloramphenicol in animals raised for food production. See, 21 CFR 522.390(3). The FDA has set a zero tolerance level for Chloramphenicol in food.

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, European Union inspectors found chloramphenicol residues in shrimp and crawfish harvested from and produced in China. The inspectors also found "serious deficiencies of the Chinese residue control system and problems related to the use of banned substances in the veterinary field," which may contribute to Chloramphenicol residues in Chinese shrimp and crawfish. The Chinese are

known to use antibiotics, such as Chloramphenicol, in farm-raised shrimp. They are also known to process crawfish and shrimp harvested in the wild in the same plants used to process farm-raised shrimp.

The European Union, in January of this year, banned the import of shrimp and crawfish from China because Chloramphenicol has been found in shrimp and crawfish imported from China. Canada has, this year, banned the import of shrimp and crawfish that contain levels of chloramphenicol above the level established by Canada. Between 1999 and 2000 imports of Chinese Shrimp to the United States doubled, from 19,502,000 pounds to 40,130,000 pounds. With the recent bans imposed by the European Union and Canada there is an imminent danger that the shrimp and crawfish that China would normally export to the European Union and Canada will be dumped and sold in the United States, including Louisiana.

The sale of such shrimp and crawfish in Louisiana will expose Louisiana's citizens, including unborn children and nursing infants, to Chloramphenicol, a known health hazard. The sale, in Louisiana, of shrimp and crawfish containing Chloramphenicol presents an imminent peril to the public's health, safety and welfare.

This peril can cause consumers to quit buying shrimp and crawfish from any source, including Louisiana shrimp and crawfish. If consumers cease to buy, or substantially reduce, their purchases of Louisiana shrimp and seafood, Louisiana aquaculture and fisheries will be faced with substantial economic losses. Any economic losses suffered by Louisiana's aquaculture and fisheries will be especially severe in light of the current economic situation, thereby causing an imminent threat to the public welfare.

Consumers of shrimp and crawfish cannot make an informed decision as to what shrimp or crawfish to purchase and the commissioner cannot adequately enforce the regulations regarding the sampling and testing of shrimp and crawfish unless shrimp and crawfish produced in foreign countries are properly labeled as to the country of origin.

The commissioner of Agriculture and Forestry has, therefore, determined that these Emergency Rules are necessary to immediately implement testing of shrimp and crawfish for Chloramphenicol, to provide for the sale of shrimp and crawfish that are not contaminated with Chloramphenicol and to provide for the labeling of shrimp and crawfish harvested from or produced, processed or packed in countries other than the United States. This Rule becomes effective on September 20, 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

§137. Chloramphenicol in Shrimp and Crawfish Prohibited Testing and Sale

A. Definitions

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

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

Packaged Shrimp or Crawfish Any shrimp or crawfish, 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.

Shrimp or Crawfish Any such animals, whether whole, de-headed, de-veined or peeled, and any product containing any shrimp or crawfish.

B. No shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana if such shrimp or crawfish contain Chloramphenicol.

C. No shrimp or crawfish may be held, offered or exposed for sale, or sold in Louisiana without being accompanied by the following records and information, written in English:

1. The records and information required are:

a. the quantity and species of shrimp and crawfish acquired or sold;

b. the date the shrimp or crawfish was acquired or sold;

c. the name and license number of the wholesale/retail seafood dealer or the out-of-state seller from whom the shrimp or crawfish was acquired or sold;

d. the geographic area where the shrimp or crawfish was harvested;

e. the geographic area where the shrimp or crawfish was produced processed or packed;

f. the trade or brand name under which the shrimp or crawfish is held, offered or exposed for sale or sold; and

g. the size of the packaging of the packaged shrimp or crawfish.

2. Any person maintaining records and information as required to be kept by the Louisiana Department of Wildlife and Fisheries in accordance with R.S. 56:306.5, may submit a copy of those records, along with any additional information requested herein, with the shrimp or crawfish.

3. Any shrimp or crawfish not accompanied by all of this information shall be subject to the issuance of a stop-sale, hold or removal order until the shrimp or crawfish is tested for and shown to be clear of Chloramphenicol, or the commissioner determines that the shrimp or crawfish does not come from a geographic area where Chloramphenicol is being used on or found in food producing animals, or in products from such animals.

D. No shrimp or crawfish 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 F.

E. 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.

F. *Shrimp or crawfish*, 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 *shrimp or crawfish* that are in lots of 50 pounds or less;
- ii. four samples are to be taken of *shrimp or crawfish* that are in lots of 51 to 100 pounds;
- iii. twelve samples are to be taken of *shrimp or crawfish* that are in lots of 101 pounds up to 50 tons;
- iv. twelve samples for each 50 tons are to be taken of *shrimp or crawfish* that are in lots of over 50 tons.

b. For *packaged shrimp or crawfish*, each sample shall be at least eight ounces, (226.79 grams), in size and shall be taken at random throughout each lot of *shrimp or crawfish*. For all other *shrimp or crawfish*, obtain approximately one pound, (454 grams), of *shrimp or crawfish* per sample from randomly selected areas.

c. If the *shrimp or crawfish* to be sampled consists of packages of *shrimp or crawfish* grouped together, but labeled under two or more trade or brand names, then the *shrimp or crawfish packaged* under each trade or brand name shall be sampled separately. If the *shrimp or crawfish* 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 *shrimp or crawfish*. 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 *shrimp or crawfish* up to and including one pound, use the entire sample. Shell the *shrimp or crawfish*, 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 *shrimp or crawfish* 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 *shrimp or crawfish*.

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 *shrimp or crawfish* 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 shrimp or crawfish sent to each location in Louisiana or shall be immediately accessible to the department, upon request, from any such location.

G Any person who is seeking to bring *shrimp or crawfish* that is required to be sampled and tested under this Section, into Louisiana, or who holds, offers or exposes for sale, or sells such *shrimp or crawfish* in Louisiana shall be responsible for having such *shrimp or crawfish* sampled and tested in accordance with Subsection F. Any such person

must, at all times, be in full and complete compliance with all the provisions of this Section.

H. The commissioner may reject the test results for any *shrimp or crawfish* 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.

I. In the event that any certified test results are rejected by the commissioner then any person shipping or holding the *shrimp or crawfish* 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 *shrimp or crawfish* 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 *shrimp or crawfish* are certified as being free of Chloramphenicol.

J. The department may inspect, and take samples for testing, any *shrimp or crawfish*, of whatever origin, being held, offered or exposed for sale, or sold in Louisiana.

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

L. The department may take physical possession and control of any *shrimp or crawfish* that violate the requirements of this Section if the commissioner finds that the *shrimp or crawfish* 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.

M. 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 country of the People's Republic of China.

2. All shrimp and crawfish 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.

N. The records and information required under this Section shall be maintained for two years and shall be open to inspection by the department.

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

P. The effective date of this Section is May 24, 2002.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 30:

§139. Labeling of Foreign Shrimp and Crawfish by Country of Origin

A. Definitions.

Foreign Shrimp or Crawfish Any *shrimp or crawfish*, as defined herein that is harvested from or produced,

processed or packed in a country other than the United States.

Shrimp or Crawfish Any shrimp or crawfish, whether whole, de-headed, de-veined or peeled, and any product containing any *shrimp or crawfish*.

B. All *foreign shrimp or crawfish*, 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 shrimp or crawfish*, 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 *shrimp or crawfish* 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 *shrimp or crawfish* 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 shrimp or crawfish* are combined with domestic *shrimp or crawfish*, or products made from or containing domestic *shrimp or crawfish*, 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 shrimp or crawfish*.

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 shrimp or crawfish*, or any sign advertising such *foreign shrimp or crawfish* 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 *shrimp or crawfish*, 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 *shrimp or crawfish* is from a country other than the United States shall be placed in close proximity to the words, letters or name that indicates the *shrimp or crawfish* 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," 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, if such use is deceptive, misleading or prohibited by other federal or state law.

F. *Foreign shrimp or crawfish* shall not have to be marked or labeled with the country of origin if such *shrimp or crawfish* are included as components in a product manufactured in the United States and the *shrimp or crawfish* 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, de-heading, de-veining, peeling, partially cooking or

combining with domestic *shrimp or crawfish* 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 *shrimp or crawfish* 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, and 3:4608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 30:

Bob Odom
Commissioner

0310#005

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.911, 1111, and 2105)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the Rules of the Scholarship/Grant programs (R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1, R.S. 17:3048.1).

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

This Declaration of Emergency is effective September 11, 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 9. TOPS Teacher Award

§911. Discharge of Obligation

A. - B.4. ...

C. Discharging the loan by Monetary Repayment. Recipients who elect not to discharge the obligation by teaching and who are not eligible for discharge by cancellation must repay the loan principal plus accrued interest and any collection costs incurred according to the following terms and conditions:

1. - 3.c. ...

4. unless the recipient qualifies for reduced payments as provided in §2105.H, the amount to be repaid annually will be the greater of:

a. the amount necessary to repay the capitalized loan principal within 10 years; or

b. \$1,200 per year or the unpaid balance, whichever is less;

C.5. - D.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998), amended LR 26:69 (January 2000), LR 26:1603 (August 2000), LR 27:1858 (November 2001), LR 30:

Chapter 11. Rockefeller State Wildlife Scholarship

§1111. Discharge of Obligation

A. - B. ...

C. Monetary Repayment. Recipients who do not discharge the obligation by graduating in an eligible major and who are not eligible for discharge by cancellation must repay the loan principal, plus accrued interest and any collection costs incurred in accordance with the following terms and conditions:

1. - 3. ...

4. unless the recipient qualifies for reduced payments as provided in §2105.H, the annual repayment amount will be the greater of:

a. the amount necessary to repay the capitalized loan principal within seven years; or

b. \$1,200 per year or the unpaid balance, whichever is less;

C.5. - D.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1860 (November 2001), LR 30:

Chapter 21. Miscellaneous Provisions and Exceptions

§2105. Repayment Obligation, Deferment, Cancellation and Reduced Payments

A. - G.2. ...

H. Reduced Payments

1. Recipients who do not discharge the obligation by graduating in an eligible major and who are not eligible for discharge by cancellation must repay the loan principal, plus accrued interest and any collection costs incurred. Recipients in repayment status may request a temporary hardship repayment schedule that may be approved by LOSFA, upon receipt of documentation evidencing one or more of the following conditions:

a. the recipient is receiving federal or state public assistance;

b. the recipient's total gross, yearly income does not exceed the current federal poverty level for his/her state;

c. the recipient is experiencing a severe temporary medical condition and is unable to meet his/her financial obligations; or

d. the recipient has experienced a severe personal catastrophe or calamity and is temporary unable to meet his/her financial obligations.

2. If allowed by LOSFA, such reduced payments will continue as long as the condition(s) exist.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1868 (November 2001).

George Badge Eldredge
General Counsel

0310#007

DECLARATION OF EMERGENCY

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

**Disproportionate Share Hospital Payment Methodologies
(LAC 50:V.Chapter 3)**

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 promulgated a Rule to adopt the provisions governing the disproportionate share payment methodologies for hospitals in May of 1999 (*Louisiana Register, Volume 25, Number 5*). The May 20, 1999 Rule was later amended to change the criteria used to define rural hospitals and to clarify the policy governing final payments and adjustments (*Louisiana Register, Volume 29, Number 1*).

The Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000 made provisions for public hospitals to receive disproportionate share hospital adjustment payments up to 175 percent of their allowable uncompensated care cost. Act 1024 of the 2001 Regular Session directed the Department of Health and Hospitals, as the federally designated Medicaid state agency, to specify in the Medicaid State Plan how uncompensated care is defined and calculated and to determine what facilities qualify for uncompensated care payments and the amount of the payments. In determining payments, the department shall prioritize local access to primary health care for the medically indigent and uninsured, and shall not include unreimbursed costs resulting from excess inpatient hospital capacity. For the period July 1, 2003 through June 30, 2005, the state's Medicaid uncompensated care payments shall be distributed in proportion to the amount and type of uncompensated care reported by all qualified facilities as required by Senate Bill No. 883 of the 2001 Regular Session. Nothing shall be construed to impede or preclude the Department of Health and Hospitals from implementing the provisions in the Rural Hospital Preservation Act. Further, Senate Concurrent Resolution 94 of the 2001 Regular Session and Senate Concurrent Resolution 27 of the 2002 Regular Session of the Louisiana Legislature requested the Department of Health and Hospitals, the Louisiana State

University Health Sciences Center-Health Services Division, and the Louisiana State University Health Sciences Center to study and recommend common acute hospital payment methodologies for state and non-state hospitals participating in the Medicaid Program and the Medicaid Disproportionate Share Program. In accordance with the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000 and the findings and recommendations contained in the final reports of the study committees, the department repealed and replaced all provisions governing disproportionate share hospital payments (*Louisiana Register, Volume 29, Number 6*). Acts 14, 526 and 1148 of the 2003 Regular Session of the Louisiana Legislature directed the department to amend the qualifying criteria and the payment methodology for disproportionate share payments to small rural hospitals. In compliance with Acts 14, 526 and 1148, the Bureau amended the July 1, 2003 Emergency Rule (*Louisiana Register, Volume 29, Number 9*). This Emergency Rule is being promulgated to continue provisions contained in the July 1, 2003 Rule. This action is being taken to enhance federal revenue.

Effective October 30, 2003 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing hereby repeals and replaces all Rules governing disproportionate share hospital payment methodologies.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part V. Medical Assistance ProgramC Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 3. Disproportionate Share Hospital Payment Methodologies

§301. General Provisions

A. The reimbursement methodology for inpatient hospital services incorporates a provision for an additional payment adjustment for hospitals serving a disproportionate share of low income patients.

B. The following provisions govern the disproportionate share hospital (DSH) payment methodologies for qualifying hospitals.

1. Total cumulative disproportionate share payments under any and all disproportionate share hospital payment methodologies shall not exceed the federal disproportionate share state allotment for Louisiana for each federal fiscal year or the state appropriation for disproportionate share payments for each state fiscal year. The department shall make necessary downward adjustments to hospital's disproportionate share payments to remain within the federal disproportionate share allotment and the state disproportionate share appropriated amount.

2. Appropriate action including, but not limited to, deductions from DSH, Medicaid payments and cost report settlements shall be taken to recover any overpayments resulting from the use of erroneous data, or if it is determined upon audit that a hospital did not qualify.

3. DSH payments to a hospital determined under any of the methodologies described in this Chapter 3 shall not exceed the hospital's net uncompensated cost as defined in §305-313 or the disproportionate share limits as defined in Section 1923(g)(1)(A) of the Social Security Act for the state fiscal year to which the payment is applicable. Public hospitals included in §305, §307 and §313 shall receive

DSH payments up to 175 percent of the hospital's net uncompensated costs.

4. Qualification is based on the hospital's latest filed cost report as of March 31 of the current state fiscal year and related uncompensated cost data as required by the department. Qualification for small rural hospitals is based on the latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports and related uncompensated cost data will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

5. Hospitals and/or units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments for the remainder of the current DSH pool payment cycle and thereafter.

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 30:

§303. Disproportionate Share Hospital Qualifications

A. In order to qualify as a disproportionate share hospital, a hospital must:

1. have at least two obstetricians who have staff privileges and who have agreed to provide obstetric services to individuals who are Medicaid eligible. In the case of a hospital located in a rural area (i.e., an area outside of a metropolitan statistical area), the term *obstetrician* includes any physician who has staff privileges at the hospital to perform nonemergency obstetric procedures; or

2. treat inpatients who are predominantly individuals under 18 years of age; or

3. be a hospital which did not offer nonemergency obstetric services to the general population as of December 22, 1987; and

4. have a utilization rate in excess of one or more of the following specified minimum utilization rates:

a. Medicaid utilization rate is a fraction (expressed as a percentage). The numerator is the hospital's number of Medicaid (Title XIX) inpatient days. The denominator is the total number of the hospital's inpatient days for a cost reporting period. Inpatient days include newborn and psychiatric days and exclude swing bed and skilled nursing days. Hospitals shall be deemed disproportionate share providers if their Medicaid utilization rates are in excess of the mean, plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments; or

b. hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of 25 percent. Low-income utilization rate is the sum of:

i. the fraction (expressed as a percentage). The numerator is the sum (for the period) of the total Medicaid patient revenues plus the amount of the cash subsidies for

patient services received directly from state and local governments. The denominator is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the cost reporting period from the financial statements; and

ii. the fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in §303.A.4.b.i in the period which are reasonably attributable to inpatient hospital services. The denominator is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero. This numerator shall not include contractual allowances and discounts (other than for indigent patients ineligible for Medicaid), i.e., reductions in charges given to other third-party payers, such as HMOs, Medicare, or Blue Cross; nor charges attributable to Hill-Burton obligations. A hospital providing "free care" must submit its criteria and procedures for identifying patients who qualify for free care to the Bureau of Health Services Financing for approval. The policy for free care must be posted prominently and all patients must be advised of the availability of free care and the procedures for applying. Hospitals not in compliance with free care criteria will be subject to recoupment of DSH and Medicaid payments; or

c. hospitals shall be deemed disproportionate share providers eligible for reimbursement for inpatient services if their inpatient uninsured utilization rates are in excess of 3 percent.

i. inpatient uninsured utilization rate is a fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for inpatient services furnished to uninsured persons for the period. The denominator is the total amount of the hospital's charges for inpatient services furnished to all persons for the period; or

d. hospitals shall be deemed disproportionate share providers eligible for reimbursement for outpatient services if their outpatient uninsured utilization rates are in excess of three percent.

i. outpatient uninsured utilization rate is a fraction (expressed as a percentage). The numerator is the total amount of the hospital's charges for outpatient services furnished to uninsured persons for the period. The denominator is the total amount of the hospital's charges for outpatient services furnished to all persons for the period; or

5. effective November 3, 1997, be a small rural hospital as defined in §311.A.1.a-h; and

6. in addition to the qualification criteria outlined in §303.A.1-5, effective July 1, 1994, must also have a Medicaid inpatient utilization rate of at least one percent.

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 30:

§305. High Uninsured Hospitals

A. Definitions

High Uninsured Utilization Rate Hospital Ca hospital that has an uninsured utilization rate in excess of the mean,

plus one standard deviation of the uninsured utilization rates for all hospitals.

Net Uncompensated Cost the cost of furnishing inpatient and outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients.

B. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from *net uncompensated cost* are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an annual attestation that patients whose care is included in the hospitals' *net uncompensated cost* are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

C. DSH payments to individual high uninsured hospitals shall be equal to 100 percent of the hospital's *net uncompensated costs* and subject to the adjustment provision in §301.B. DSH payments to individual public high uninsured hospitals shall be up to 175 percent of the hospital's *net uncompensated costs* and subject to the adjustment provision in §301.B.

D. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each high uninsured hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying high uninsured hospitals during the state fiscal year; and then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

E. A hospital receiving DSH payments shall furnish emergency and nonemergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

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 30:

§307. Other Uninsured Hospitals

A. Definitions

Net Uncompensated Cost the cost of furnishing inpatient and outpatient hospital services to uninsured persons, supported by patient-specific data, net of any payments received from such patients.

Other Uninsured Utilization Rate Hospital a qualifying hospital that is not included in §305, §311, §313 or §315.

B. It is mandatory that hospitals seek all third party payments including Medicare, Medicaid and other third party carriers and payments from patients. Hospitals must certify that excluded from *net uncompensated cost* are any costs for the care of persons eligible for Medicaid at the time of registration. Hospitals must maintain a log documenting the provision of uninsured care as directed by the department. Hospitals must adjust uninsured charges to reflect retroactive Medicaid eligibility determination. Patient specific data is required after July 1, 2003. Hospitals shall annually submit:

1. an attestation that patients whose care is included in the hospitals' *net uncompensated cost* are not Medicaid eligible at the time of registration; and

2. supporting patient-specific demographic data that does not identify individuals, but is sufficient for audit of the hospitals' compliance with the Medicaid ineligibility requirement as required by the department, including:

- a. patient age;
- b. family size;
- c. number of dependent children; and
- d. household income.

C. DSH payments to an individual other uninsured hospital shall be based on the hospital's uninsured utilization rate and the distribution of all other uninsured hospitals uninsured utilization rates. DSH payments to hospitals in the first quintile of the distribution shall be equal to 25 percent of the hospital's *net uncompensated costs* and subject to the adjustment provision in §301.B. DSH payments to hospitals in the second through the fifth quintiles of the distribution shall be equal to 40, 55, 70 and 85 percent of the hospital's *net uncompensated cost*, respectively. DSH payments to individual public other uninsured hospitals shall be up to 175 percent of the hospital's *net uncompensated costs* and subject to the adjustment provision in §301.B.

D. In the event it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each other uninsured hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying other uninsured hospitals during the state fiscal year; and then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

E. A hospital receiving DSH payments shall furnish emergency and nonemergency services to uninsured persons with family incomes less than or equal to 100 percent of the federal poverty level on an equal basis to insured patients.

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 30:

§309. High Medicaid Hospitals

A. Definition. *High Medicaid Utilization Rate Hospital* a hospital that has a Medicaid utilization rate in excess of the mean, plus one standard deviation of the Medicaid

utilization rates for all hospitals in the state receiving payments and that is not included in §305.

1. Medicaid utilization rate is a fraction (expressed as a percentage). The numerator is the hospital's number of Medicaid (Title XIX) inpatient days. The denominator is the total number of the hospital's inpatient days for a cost-reporting period.

B. DSH payments to individual high Medicaid hospitals shall be based on actual paid Medicaid days for a six-month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Annualization of days for the purposes of the Medicaid days pool is not permitted. The amount will be obtained by DHH from a report of paid Medicaid days by service date.

C. Disproportionate share payments for individual high Medicaid hospitals shall be calculated based on the product of the ratio determined by:

1. dividing each qualifying high Medicaid hospital's actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by DHH from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified high Medicaid hospitals. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days; and

2. multiplying by an amount of funds for high Medicaid hospitals to be determined by the director of the Bureau of Health Services Financing.

D. A pro rata decrease necessitated by conditions specified in §301.B. for high Medicaid hospitals will be calculated based on the ratio determined by:

1. dividing the hospitals' Medicaid days by the Medicaid days for all qualifying high Medicaid hospitals; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

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 30:

§311. Small Rural Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Small Rural Hospital—a hospital (excluding a long-term care hospital, rehabilitation hospital, or freestanding psychiatric hospital but including distinct part psychiatric units) that meets the following criteria:

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

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

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

d. had no more than 60 hospital beds as of July 1, 1997 and is a publicly-owned and operated hospital that is located in either a parish with a population of less than 50,000 or a municipality with a population of less than 20,000; or

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

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

g. was a hospital facility licensed by the department that had no more than 60 hospital beds as of July 1, 1994, which hospital facility:

i. has been in continuous operation since July 1, 1994;

ii. is currently operating under a license issued by the department; and

iii. is located in a parish with a population, as measured by the 1990 census, of less than 50,000; or

h. has no more than 60 hospital beds or has notified the department as of March 7, 2002 of its intent to reduce its number of hospital beds to no more than 60, and is located in a municipality with a population of less than 13,000 and in a parish with a population of less than 32,000 as measured by the 2000 census; or

i. has no more than 60 hospital beds or has notified DHH as of December 31, 2003, of its intent to reduce its number of hospital beds to no more than 60; and

i. is located, as measured by the 2000 census, in a municipality with a population of less than 7,000;

ii. is located, as measured by the 2000 census, in a parish with a population of less than 53,000; and

iii. is located within 10 miles of a United States military base; or

j. has no more than 60 hospital beds as of September 26, 2002; and

i. is located, as measured by the 2000 census, in a municipality with a population of less than 10,000; and

ii. is located, as measured by the 2000 census, in a parish with a population of less than 33,000; or

k. has no more than 60 hospital beds as of January 1, 2003; and

i. is located, as measured by the 2000 census, in a municipality with a population of less than 11,000; and

ii. is located, as measured by the 2000 census, in a parish with a population of less than 90,000.

B. Payment based on uncompensated cost for qualifying *small rural hospitals* shall be in accordance with the following three pools:

1. *Public (Nonstate) Small Rural Hospitals*—*small rural hospitals* as defined in §311.A.1, which are owned by a local government.

2. *Private Small Rural Hospitals*—*small rural hospitals* as defined in §311.A.1, that are privately owned.

3. *Small Rural Hospitals*—small rural hospitals as defined in §311.A.1.i - §311.A.1.k.

C. Payment to hospitals included in §311.B.1 and §311.B.2 is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the latest filed cost report multiplied by the amount set for each pool. Payments to all hospitals included in §311.B.3 shall not exceed \$1,200,000 in aggregate and shall be reimbursed the lower of \$300,000 per hospital or each hospital's actual uncompensated cost per their latest filed cost report. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

D. Pro Rata Decrease

1. A pro rata decrease necessitated by conditions specified in §301.B. for rural hospitals described in this §311 will be calculated using the ratio determined by:

a. dividing the qualifying rural hospital's uncompensated costs by the uncompensated costs for all rural hospitals in §311; then

b. multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state DSH appropriated amount.

2. No additional payments shall be made after the final payment for the state fiscal year is disbursed by the department. Recoupment shall be initiated upon completion of an audit if it is determined that the actual uncompensated care costs for the state fiscal year for which the payment is applicable is less than the actual amount paid.

E. Qualifying hospitals must meet the definition for a *small rural hospital* contained in §311.A.1. Qualifying hospitals must maintain a log documenting the provision of uninsured care as directed by the department.

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 30:

§313. Public State-Operated Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Public State-Operated Hospital—a hospital that is owned or operated by the State of Louisiana, Department of Health and Hospitals.

B. DSH payments to individual public state-owned or operated hospitals shall be up to 175 percent of the hospital's *net uncompensated costs*. Final payment will be based on the uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

C. In the event that it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH-appropriated amount, the department shall calculate a pro rata decrease for each public state-owned or operated hospital based on the ratio determined by:

1. dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public state-owned or operated hospitals during the state fiscal year; and then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH-appropriated amount.

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 30:

§315. Psychiatric Hospitals

A. Definitions

Net Uncompensated Cost—the cost of furnishing inpatient and outpatient hospital services, net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients.

Psychiatric Hospital—a free standing *psychiatric hospital* that is not included in §313.

B. DSH payments to individual free standing *psychiatric hospitals* shall be based on actual paid Medicaid days for a six-month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Annualization of days for the purposes of the Medicaid days pool is not permitted. The amount will be obtained by DHH from a report of paid Medicaid days by service date.

C. Disproportionate share payments for individual free standing *psychiatric hospitals* shall be calculated based on the product of the ratio determined by:

1. dividing each qualifying free standing *psychiatric hospital's* actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by DHH from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified free standing *psychiatric hospitals*. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days; and

2. multiplying by an amount of funds for free standing psychiatric to be determined by the director of the Bureau of Health Services Financing

D. A pro rata decrease necessitated by conditions specified in §301.B. for hospitals in §315 will be calculated based on the ratio determined by:

1. dividing the hospitals' Medicaid days by the Medicaid days for all qualifying hospitals in §315; then

2. multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

AUTHORITY NOTE: Promulgated in accordance with RS. 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 30:

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

0310#082

DECLARATION OF EMERGENCY

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

Early and Periodic Screening, Diagnosis and
Treatment Dental Program C Reimbursement
(LAC 50:XV.6903)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.6903 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 Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Title II) requires national standards for electronic health care transactions and national identifiers for providers, health plans, and employers (*Federal Register*, Volume 65, Number 160). This includes standardized procedure codes and definitions. The Department of Health and Hospitals, Bureau of Health Services Financing is required to implement these codes and definitions or face monetary sanctions. In compliance with HIPAA requirements, the bureau clarified the descriptions for two Early and Periodic Screening, Diagnosis and Treatment (EPSDT) dental procedure codes and adjusted the reimbursement rates to conform with the HIPAA compliant procedure code descriptions (*Louisiana Register*, Volume 29, Number 2).

This Emergency Rule is promulgated to continue the provisions of the February 21, 2003 Emergency Rule. This action is being taken to avoid federal sanctions by complying with the mandates of the Health Insurance Portability and Accountability Act.

Effective for dates of services on or after October 21, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing clarifies the procedure descriptions and adjusts the reimbursement fees for the following Early and Periodic Screening, Diagnosis and Treatment dental procedure codes.

**Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 5. Early and Periodic Screening,
Diagnosis, and Treatment**

Chapter 69. Dental

§6903. Reimbursement

A. Reimbursement Fees are adjusted for certain designated procedure codes to the following rates.

Procedure Code	Procedure	Rate
* * *		
[See Prior Text in 00120 - 02931]		
02950	Core Buildup, including any pins	\$55
02954	Prefabricated Post and Core in addition to crown	\$75
* * *		
[See Prior Text in 03220 - 07210]		

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 29:

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

0310#080

DECLARATION OF EMERGENCY

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

Early Periodic Screening, Diagnosis and
Treatment Program Early Intervention Services
for Infants and Toddlers with Disabilities
(LAC 50:XV.Chapter 81)

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 repealing targeted case management (family service coordination) as a covered service under the Early Periodic Screening, Diagnosis and Treatment Program early intervention services for infants and toddlers with disabilities (*Louisiana Register*, Volume 29, Number 9). 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

0310#085

DECLARATION OF EMERGENCY

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

Early and Periodic Screening, Diagnosis and Treatment Program
Early Intervention Services for Infants and Toddlers with Disabilities
(LAC 50:XV.Chapter 81)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted LAC 50:XV. Chapter 81 in the Medical Assistance Program as authorized by LA R.S. 36:254 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.

Congress enacted the Individuals with Disabilities Education Act (IDEA) Amendments of 1997 to ensure the availability of appropriate public education and related services and supports to children with disabilities and their families. Part C of IDEA addresses the special needs of young children through the provision of financial assistance to States to implement and maintain a statewide, comprehensive, coordinated, multi-disciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families [34 CFR 303.1(a)].

Louisiana's early intervention system under Part C of IDEA, is a comprehensive, coordinated, family centered system of educational and health services for infants and toddlers age birth to age three who have a physical or mental condition, but have been determined to be delayed in cognitive, physical, communication, social/emotional or adaptive development. Previously, the Department of Education served as the lead agency responsible for administering Part C of Idea. However, the Governor mandated the transfer of Part C from the Department of Education, Division of Special Populations to the Department of Health and Hospitals, Office of Public Health.

In conjunction with the transfer of Part C, the Bureau of Health Services Financing established early intervention services for infants and toddlers with disabilities under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program (*Louisiana Register, Volume 29, Number 7*) This Rule is being promulgated to continue the provisions of the July 7, 2003 Emergency Rule. Medicaid covered early intervention services include physical therapy, occupational therapy, speech therapy, audiology services, psychological services and targeted case management. These individual services are currently furnished to Medicaid recipients through the outpatient hospital, home health, EPSDT health

services, rehabilitation center, and targeted case management service programs. The individual services will continue to be covered through these service programs.

This action is necessary to promote the health and welfare of Medicaid eligible infants and toddlers with disabilities by enhancing the availability of early intervention services and to avoid possible federal sanctions.

Effective November 5, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes early intervention services for infants and toddlers with disabilities under the Medicaid Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program in conjunction with the transfer of Part C of the Individuals with Disabilities Education Act.

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 81. Early Intervention Services

§8101. Reserved.

§8103. Recipient Qualifications

A. In order to qualify for Medicaid covered early intervention services, an individual must meet the following qualifications:

1. be an Medicaid eligible infant or toddler age birth to age three; and
2. be enrolled to participate in the Part C program.

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 30:

§8105. Covered Services

A. Medicaid covered early intervention services shall be limited to the following services:

1. physical therapy;
2. occupational therapy;
3. speech therapy;
4. audiology services;
5. psychological services; and
6. targeted case management (family service coordination).

B. Psychological services includes diagnosis and psychological counseling/therapy for the child and his/her family.

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 30:

§8107. Provider Participation

A. Provider participation shall be the Title V agency, the lead agency responsible for the administration of the provisions of Part C of the Individuals with Disabilities Education Act in Louisiana.

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 30:

§8109. Reimbursement

A. The reimbursement methodology for Medicaid covered early intervention services shall be a negotiated rate

based on the cost for the provision of services in accordance with the terms of the intra-agency agreement between the Medicaid Program and the Title V agency.

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 30:

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

0310#083

DECLARATION OF EMERGENCY

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

Inpatient Psychiatric Services Public State-Owned or Operated Hospitals 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 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 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*).

The bureau now proposes to rebase the reimbursement rates paid to public state owned or operated hospitals for inpatient psychiatric hospital services to the 50th percentile of costs per day for services based on cost reports ending in state fiscal year 2002. This action is being taken to protect the health and welfare of Medicaid recipients by encouraging the continued participation of hospitals that furnish psychiatric services in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures for public inpatient psychiatric services by approximately \$2,871,754 for state fiscal year 2003-2004.

Emergency Rule

Effective for dates of service October 20, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement for inpatient psychiatric hospital services provided in a state owned or operated free-standing psychiatric hospital or distinct part psychiatric unit to a per diem rate based on the 50th percentile facility for costs as reported on the cost report for the year ending between July 1, 2001 and June 30, 2002. The costs utilized to determine the 50th percentile facility will include all free-standing psychiatric hospitals and distinct part psychiatric units providing services to Medicaid recipients in the state. Costs will be trended to the midpoint of the rate year using the Medicare PPS Market Basket Index. The application of inflationary adjustments in subsequent years shall be contingent on the appropriation of funds by the Legislature.

Implementation of the provisions of this Rule will be delayed until November 14, 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 the 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

0310#086

DECLARATION OF EMERGENCY

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

Mental Health Rehabilitation ProgramCSanctions

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule, effective June 20, 1996 that restructured the Mental Health Rehabilitation (MHR) Program and established provisions governing recipient eligibility, service delivery requirements and reimbursement methodology (*Louisiana Register, Volume 22, Number 6*). The June 20, 1996 Rule was amended to revise provider participation requirements by establishing enrollment and certification criteria (*Louisiana Register, Volume 24, Number 7*). The certification criteria included the suspension and/or termination of provider certification. The bureau promulgated an Emergency Rule to amend the July 20, 1998 Rule by revising the provisions governing the grounds and

levels of sanctions and the notice and appeal procedures (*Louisiana Register, Volume 29, Number 10*). This Rule is being promulgated to continue the provisions of the October 20, 2003 Emergency Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the July 20, 1998 Rule to revise provisions governing the grounds and levels of sanctions and the notice and appeal procedures for Mental Health Rehabilitation (MHR) agencies. The following provisions supersede, amend and replace subsections II(G) and X of the July 20, 1998 Rule.

I. ...

II. Provider Participation

A. Application Requirements. Currently enrolled and prospective providers of mental health rehabilitation services must apply to the Bureau of Health Services Financing or its designee for certification as a mental health rehabilitation provider. The provider must have separate Medicaid provider numbers for each region where they are enrolled to do business. They have the ultimate responsibility for the delivery of all services, including those delivered through contractual agreement(s) in these regions. The prospective provider must provide documentation that the agency meets the following requirements and assurances to be enrolled as a Medicaid provider of MHR services:

1. completed PE 50 and addendum, and a completed disclosure of ownership form;
2. line of credit from a federally-insured, licensed, lending agency for at least \$20,000 as proof of adequate finances. Nonprofit agencies which have been in existence for at least five years and have a valid audit, by a certified public accountant, of their most recent fiscal year, which verifies the viability of the agency are not required to meet this standard;
3. statement identifying the population to be served: adults with serious mental illness; children with emotional/behavior disorder; or both; staff must have been credentialed by the Office of Mental Health to provide services to each designated population group (children and/or adults);
4. proof of general liability insurance of at least \$150,000 and professional liability insurance of at least \$150,000. The certificate holder shall be the Department of Health and Hospitals;
5. identification of the agency's main offices, all offices billing with the main office's Medicaid provider number, and all regions in which the agency conducts business;
6. résumés and documentation of qualifications for the current program director, the psychiatric director and all clinical manager(s), including documentation of licensure;
7. disclosure, in writing, of any financial transaction with the agency in which a member of the governing body, administrative personnel, or his/her immediate family is involved and/or a familial relationship with any other entity receiving Medicaid funds;

8. a copy of a current adult day care license issued by Department of Social Services if providing group psychosocial skills/training for adults;

9. certifications and licenses must reflect the correct agency name and address;

10. certification by Office of Mental Health that the provider meets the criteria listed in B below.

B. Certification Requirements. Upon receipt of the application, the Bureau of Health Services Financing or its designee will conduct an onsite visit within 30 working days of receipt of a completed enrollment packet to assure that the agency meets the following enrollment guidelines:

1. Demonstrate an administrative structure to provide mental health rehabilitation services as evidenced by written policies and procedures to include:

- a. the composition and responsibilities of the governing body;
- b. administrative files for employment and personnel including job descriptions, an organization chart, time sheets, payroll records and hiring practices;
- c. personnel records of each staff member documenting experience, education and training in accordance with MHR staffing requirements;
- d. compliance with the ongoing MHR training requirements;
- e. procedure for the maintenance, security, and confidentiality of residents' records;
- f. consumers' rights including procedures for resolution of grievances;
- g. procedures for reporting cases of abuse and neglect as defined by state and federal regulations;
- h. procedures for subcontracting of services, including copies of leases, contracts and service agreements.

2. Demonstrate adequate financial resources; a system of business management and staffing; and fiscal accountability to assure maintenance of complete and accurate accounts, books and records in keeping with generally accepted accounting principles, as follows:

- a. maintain a preliminary or current detailed budget for the agency;
- b. maintain adequate funds to reimburse staff and provide necessary services;
- c. maintain a separate business bank account;
- d. submit a copy of an annual audit of the MHR agency conducted by an independent certified public accountant, in accordance with generally accepted accounting principles, within 90 days of the close of the agency's first year of business and annually thereafter.

3. Demonstrate the capacity to provide all services within the MHR program directly or through a subcontract as evidenced by:

- a. identification of direct services to be provided, including a written program philosophy and agency goals;
- b. identification of the role of clinical management within the agency;
- c. identification of services to be provided by subcontractors;
- d. identification of professional consultants, including psychologists, psychiatrists, and/or physicians, and their role within the agency;
- e. maintenance of a written plan to determine the effectiveness of the MHR program including a Continuous

Quality Improvement Plan and a consumer satisfaction component.

4. An agency shall be required to have regular posted business office hours and be fully operational at least eight hours a day, five days a week between 7 a.m. and 7 p.m. Services shall be available on an emergency basis 24 hours a day, seven days a week. (If an agreement is made with another entity, a signed agreement shall be on file.)

5. Outreach offices shall serve the same or part of the geographic area approved for the main office.

a. The outreach office shall retain all clinical records for its consumers. Duplicate records need not be maintained at the main office, but shall be made available to federal/state surveyors during any review upon request. The main office shall maintain a listing of all clients and the outreach office seeing the client.

b. Original personnel files are to be kept at the main office.

c. A statement of personnel policies is maintained in each outreach office for staff usage.

d. Approval for outreach offices will be issued, in writing, by the bureau or its designee for one year and will be renewed at time of recertification.

C. Failure to Meet Certification. If the agency fails to meet certification requirements, a letter identifying the problem areas will be sent to the agency. Within 60 days, the agency must request a second review to determine if all deficiencies were corrected. If the agency is unable to correct the deficiencies or does not request a second review, the agency is not allowed to request another site visit for one year after the initial request.

D. Recertification. Each year the agency must reapply to the BHSF or its designee for recertification 90 days prior to the expiration of the certification. The agency must submit all information outlined above. The agency will then be reviewed on-site by BHSF, or its designee, to assure the agency continues to meet certification requirements. If the agency meets the requirements, a one-year certification will be issued.

E. Failure to Meet Recertification. If the agency does not meet the standards, the agency will be notified of all deficiencies, in writing, within 15 working days following the on-site review. The agency shall submit a corrective action plan which shall be received by the bureau or its designee within 10 days of the date of the letter. A follow-up survey will be conducted (within 60 days of citation date) whenever necessary to assure correction of deficiencies. When applicable, deficiencies may be cleared at the exit interview and/or by mail.

F. Notification of Changes

1. The bureau or its designee shall be notified, in writing, of any of the following changes within five working days of the change:

- a. location;
- b. address;
- c. telephone number;
- d. hours of operation/24 hour contact procedure;
- e. ownership (controlling): 5 percent or more of controlling interest;
- f. administrator;

g. program director, clinical manager, and psychiatric director;

h. change in address or phone number of any outreach office;

i. any subcontracting change that is in addition to; or deletion of subcontractors.

2. Any request for change in location of geographic area served must include written approval from BHSF, or its designee, for the proposed area.

3. Change of Ownership. If the agency expects to undergo a change of ownership, a representative of the buyer must obtain a packet entitled "Change of Ownership (CHOW) Packet" from the bureau and complete the following information before purchasing the agency:

- a. PE-50;
- b. a disclosure of ownership form;
- c. a certified copy of the bill of sale and articles of incorporation which must be submitted to the bureau within five working days after the act of sale;
- d. the new name and address of the agency;
- e. administrative personnel.

4. Closure of MHR Agency. If at any time the agency is no longer operational, the certification shall be deemed invalid and shall be returned to the bureau within five working days. The agency owner is responsible for notifying the bureau of the location of all records. To be operational, an agency must:

- a. have at least five active consumers at the time of any survey other than an initial survey;
- b. be able to accept referrals at any time during regular business hours;
- c. have adequate staff to meet the needs of current consumers;
- d. have required designated staff on the premises at all times during business hours;
- e. be immediately available by telecommunications 24 hours per day.

G. Grounds for Sanctions

1. The following are grounds for the sanctioning of a Mental Health Rehabilitation (MHR) agency:

- a. failure to comply with any and all certification, administrative or operational requirements at all times;
- b. failure to provide the full range of services specified in the service agreement;
- c. failure to uphold patient rights when violations may or could result in harm or injury;
- d. failure to notify proper authorities of all suspected cases of neglect, criminal activity, or mental or physical abuse which could potentially cause, or actually causes harm to the patient;
- e. failure to maintain adequate qualified staff to provide necessary services;
- f. failure to adequately document that services that were billed were actually performed;
- g. failure of subcontractors to meet all required standards;
- h. failure to allow entry to the MHR agency or subcontracted agency or access to any requested records during any survey or failure to fully cooperate with a survey or investigation by DHH or its designee.

- i. failure to comply with all reporting requirements in a timely manner;
 - j. failure to provide documentation, upon request from DHH, that verifies compliance with any or all requirements as set forth in this Rule;
 - k. failure to comply with any or all federal or state regulations or laws applicable to either the Mental Health Rehabilitation Program or the Medical Assistance Program;
 - l. failure to protect consumers from harmful actions of agency employees; including, but not limited to health and safety, coercion, threat, intimidation, solicitation and harassment;
 - m. failure to remain fully operational at all times for any reason other than a disaster;
 - n. if in a one-year period, the frequency, pattern or nature of valid complaints filed against a MHR agency are substantiated;
 - o. an owner or agency staff knowingly, or with reason to know, makes a false statement of a material fact in the:
 - i. application for enrollment;
 - ii. data forms;
 - iii. clinical record;
 - iv. any matter under investigation by the department; or
 - v. certification/recertification process;
 - p. if an agency uses false, fraudulent or misleading advertising;
 - q. if any MHR agency fails to disclose a conviction for a criminal offense by a person who has ownership or controlling interest in the provider agency, or by a person who is an agent or managing employee of the MHR agency; or
 - r. if a preponderance of the evidence indicates failure to provide optimum care in accordance with current standards of practice; or
 - s. if there is reasonable evidence of bribery, solicitation or harassment by any MHR agency staff or subcontractor to use the services of any particular facility.
- H. Sanctions**
1. The following sanctions may be applied to any MHR agency, independently, consecutively and/or collectively. These sanctions may be imposed in addition to those sanctions cited in the Surveillance and Utilization Systems (SURS) Rule, LAC 50:I.Chapter 41 (*Louisiana Register, Volume 29, Number 4*).
 - a. The MHR agency may be given a written notice of deficiencies with the opportunity to submit a written plan of correction within 10 days from receipt of the letter to the Office of Mental Health. The Office of Mental Health has 30 working days from the receipt of the corrective action plan to review this plan and accept, deny or require additional modifications and will notify the provider in writing of its determination. Validation of the implementation of the corrective action plan may include an onsite visit whenever necessary to assure correction of deficiencies. If the agency fails to submit a corrective action plan within 10 days from the receipt of the letter, the Department will move to terminate the provider.

- b. The MHR agency's staff may be required to complete education and training in MHR policy and billing procedures as well as training relevant to providing quality MHR services.
- c. Payments for services rendered may be suspended or withheld until compliance is verified by DHH.
- d. The MHR agency may be required to void service logs which would result in recoupment of previous payments.
- e. The MHR agency may be terminated from participation in the Medicaid Program.
- f. The agency may be terminated as a MHR provider and all authorizations may be canceled. Terminated agencies, including all of their owners, officers, or directors may not reapply for certification as a MHR provider for a period of up to five years. The provider shall cooperate with DHH in assisting the recipient in continuing MHR services with another provider.
- g. The agency shall be denied the ability to admit new clients during the appeals process.
- h. New requests for authorization may be suspended.
- i. The MHR agency's current clients shall be moved to another MHR agency if DHH determines that the health and safety of that agency's clients is being compromised. Clients will have freedom of choice regarding the selection of service providers.

III. - VIII. ...

IX. Notice and Appeal Procedure

A. An applicant or certificant aggrieved by any action taken by the department pursuant to II(C), II(E) or II(G) may appeal such action by submitting a written request for appeal to the Secretary of the Department. The request for appeal must be received by the Secretary within 30 days after the receipt of the written notification of the department's action and must specify, in detail, the reasons for the appeal and the reasons why the applicant or certificant feels aggrieved by the department's action. All appeals filed pursuant to this Rule shall not be suspensive. Sanctions shall take effect immediately upon notice by the Department of Health and Hospitals. The appeal rights contained in this Rule are the sole MHR appeal rights within the department.

Interested persons may submit written comments to Ben A. Bearden, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Monday, November 24, 2003 at 9:30 a.m. in the Wade O. Martin Auditorium, State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

David W. Hood
Secretary

0310#089

DECLARATION OF EMERGENCY

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

Personal Care Services CLong Term
(LAC 50:XV.12903, 12905, and 12909)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.12903, 12905, and 12909 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, Bureau of Health Services Financing adopted a Rule to establish the provisions governing coverage of personal care services as an optional service under the Medicaid State Plan (*Louisiana Register, Volume 29, Number 6*). The bureau now proposes to amend the June 20, 2003 Rule to clarify covered services, revise the recipient qualifications and define the term "legally responsible relative."

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring that services can address the needs of the targeted population. It is anticipated that implementation of this Emergency Rule will be cost neutral for state fiscal year 2003-2004.

Effective October 1, 2003 or upon approval of the Centers for Medicare and Medicaid Services, which ever is later, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the June 20, 2003 Rule governing personal care services to clarify covered services, revise the recipient qualifications and define the term "legally responsible relative."

Title 50

PUBLIC HEALTHC MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term

§12903. Covered Services

A. Personal care services are defined as those services that provide assistance with the distinct tasks associated with the performance of the activities of daily living (ADL) and the instrumental activities of daily living (IADL). Assistance may be either the actual performance of the personal care task for the individual or supervision and prompting so the individual performs the task by him/herself. ADLs are those personal, functional activities required by an individual for continued well-being, health and safety. ADLs include tasks such as:

1. eating;
2. bathing;
3. dressing;
4. grooming;
5. transferring (getting in/out of the tub, from a bed to a chair);
6. reminding the recipient to take medication;

7. ambulation; and

8. toileting.

B. - C. ...

D. Constant or intermittent supervision and/or sitter services are not a component of personal care services.

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 29:912 (June 2003), amended LR 30:

§12905. Recipient Qualifications

A. Personal care services shall be available to recipients who are 65 years of age or older, or 21 years of age or older and disabled. Disabled is defined as meeting the eligibility criteria established by the Social Security Administration (SSA) for disability benefits.

B. Personal care services for elderly or disabled recipients must meet medical necessity criteria as determined by the Bureau of Health Services Financing (BHSF) and must be prior authorized by BHSF or its designee. Personal care services are medically necessary if the recipient:

1. meets the medical standards for admission to a nursing facility, including all Preadmission Screening and Annual Resident Review (PASARR) requirements; and

2. is able, either independently or through a responsible representative, to participate in his/her care and self-direct services provided by the personal care services worker; and

3. faces a substantial possibility of deterioration in mental or physical condition or functioning if either home and community-based services or nursing facility services are not provided in less than 120 days. This criterion is considered met if:

a. the recipient is in a nursing facility and could be discharged if community-based services were available;

b. is likely to require nursing facility admission within the next 120 days; or

c. has a primary caregiver who has a disability or is over the age of 70.

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 29:912 (June 2003), amended LR 30:

§12909. Standards for Participation

A. - B.3. ...

4. ensure that the direct care staff is qualified to provide personal care services. Assure that all new staff satisfactorily completes an orientation and training program in the first 30 days of employment. A legally responsible relative is prohibited from being the paid personal care worker for a family member. Legally responsible relative is defined as the parent of a minor child, foster parent, curator, tutor, legal guardian or the recipient's spouse;

5. - 10. ...

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 29:912 (June 2003), amended LR 30:

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

0310#003

DECLARATION OF EMERGENCY

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

Pregnant Women Extended Services CDental Services (LAC 50:XV.16101-16107)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XV.16101-16103 under 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 provides coverage for dental services under the Early and Periodic Screening, Diagnosis and Treatment Program for Medicaid recipients up to age 21. Under the authority of Section 440.210(a)(2) and 442.220(a)(5) of the Code of Federal Regulations, the bureau proposes to expand coverage of certain designated dental services to include Medicaid eligible pregnant women ages 21 through 59 in order to address their periodontal needs that occur during pregnancy. Medicaid coverage of these dental services ends at the conclusion of the pregnancy.

This action is being taken to promote the health and welfare of Medicaid eligible pregnant women and their unborn children by addressing those periodontal needs that may affect the pregnancy. It is anticipated that implementation of this Emergency Rule will increase program expenditures for dental services by approximately \$3,129,560 for state fiscal year 2003-2004. It is also anticipated that implementation of these preventative measures will reduce the number of preterm/low birth weight babies and will decrease expenditures in the hospital program by approximately \$4,269,642. This will result in overall savings to the Medicaid Program of approximately \$1,223,655 for state fiscal year 2003-2004.

Effective for dates of service on and after November 1, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing the coverage of the dental services for pregnant women.

Title 50 PUBLIC HEALTHC MEDICAL ASSISTANCE Part XV. Services for Special Populations Subpart 13. Pregnant Women Extended Services Chapter 161. Dental Services

§16101. Recipient Qualifications

A. In order to qualify for dental services, a Medicaid eligible pregnant woman must be age 21 through 59 and certified for Medicaid as categorically eligible.

B. Pregnant women who are certified for Medicaid as Qualified Medicare Beneficiaries do not qualify for coverage of dental services unless these services are covered by Medicare.

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 30:

§16103. Provider Responsibilities

A. The attending physician for obstetrical care must complete the Referral for Pregnancy-Related Dental Services Form (BHSF Form 9M), including the expected date of delivery. The dental provider must obtain the completed BHSF 9-M prior to the delivery of dental services. This form shall be kept on file at the treating dentist's office.

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 30:

§16105. Covered Services

A. The following dental services are covered for Medicaid eligible pregnant women:

Description
Comprehensive Periodontal Evaluation – New or Established Patient
Intraoral - Periapical First Film
Intraoral - Periapical Each Additional Film
*Intraoral - Occlusal Film
Bitewings, Two Films
*Panoramic Film
Prophylaxis – Adult
* Amalgam, One Surface, Primary or Permanent
*Amalgam, Two Surfaces, Primary or Permanent
*Amalgam, Three Surfaces, Primary or Permanent
*Amalgam, Four or More Surfaces, Permanent
*Resin-based Composite, One Surface, Anterior
*Resin-based Composite, Two Surfaces, Anterior
*Resin-based Composite, Three Surfaces, Anterior
*Resin-based Composite, Four or More Surfaces or Involving Incisal Angle, Anterior
*Resin-based Composite Crown, Anterior
*Prefabricated Stainless Steel Crown, Permanent Tooth
*Prefabricated Resin Crown
*Pin Retention, Per Tooth, In Addition to Restoration
*Periodontal Scaling and Root Planing - Four or More Contiguous Teeth or Bounded Teeth Spaces Per Quadrant
*Full Mouth Debridement to Enable Comprehensive Evaluation and Diagnosis
Extraction, Erupted Tooth or Exposed Root (Elevation and/or Forceps Removal)
*Surgical Removal of Erupted Tooth Requiring Elevation of Mucoperiosteal Flap and Removal of Bone and/or Section of Tooth
*Removal of Impacted Tooth, Soft Tissue
*Removal of Impacted Tooth, Partially Bony
*Prior Authorization Required

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 30:

§16107. Reimbursement

A. Reimbursement for these services is a flat fee based on the fee schedule established by the Bureau for the Early and Periodic Screening, Diagnosis and Treatment Program minus the amount which any third party coverage would pay.

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 30:

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 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

0310#084

DECLARATION OF EMERGENCY

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

Rehabilitation Services CReimbursement 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, 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 adopted a Rule establishing the reimbursement methodology for EPSDT rehabilitation services in April of 1997 (*Louisiana Register, Volume 23, Number 4*). 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 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*).

This Emergency Rule is being promulgated to continue the provisions contained in the July 6, 2002 Rule. 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.

Emergency Rule

Effective for dates of services on or after November 2, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the April 20, 1997, June 20, 1997 and May 20, 2001 Rules governing the reimbursement methodology for rehabilitation services provided by outpatient hospitals, rehabilitation centers, home health agencies and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) health services providers to increase the reimbursement rates for rehabilitation services provided to Medicaid recipients up to the age of 3, regardless of the type of provider performing the services. The new reimbursement rates for rehabilitation services rendered to Medicaid recipients up to the use of three are as follows.

Home Health Agencies and Outpatient Hospitals

Procedure Name	New Rate
Initial Sp/Lang Evaluation	\$ 70.00
Initial Hearing Evaluation	\$ 70.00
Sp/Lan/Hear Therapy 60 Minutes	\$ 56.00
Visit w/Procedure(s) 45 Minutes	\$ 56.00
Visit w/Procedure(s) 60 Minutes	\$ 74.00
Visit w/Procedures 90 Minutes	\$112.00
Procedures and Modalities 60 Minutes	\$ 74.00
Pt and Rehab Evaluation	\$ 75.00
Initial Ot Evaluation	\$ 70.00
Ot 45 Minutes	\$ 45.00
Ot 60 Minutes	\$ 60.00

Rehabilitation Centers

Procedure Name	New Rate
Group Sp Lang Hear Therapy 1/2 Hour	\$ 26.00
Speech Group Therapy add 15 Minutes	\$ 13.00
Group Sp Lang Hear Therapy 1 Hour	\$ 51.00
Initial Sp/Lang Evaluation	\$ 70.00
Initial Hearing Evaluation	\$ 70.00
Sp/Lang/Hear Therapy 30 Minutes	\$ 26.00
Sp/Lang/Hear Therapy 45 Minutes	\$ 39.00
Sp/Lang/Hear Therapy 60 Minutes	\$ 52.00
Visit w/Procedure(s) 30 Minutes	\$ 34.00

Visit w/Procedure(s) 45 Minutes	\$ 51.00
Visit w/Procedure(s) 60 Minutes	\$ 68.00
Visit w/Procedure(s) 75 Minutes	\$ 85.00
Visit w/Procedure(s) 90 Minutes	\$102.00
Ctr Visit One/More Modal/Proc 15 Minutes	\$ 17.00
Procedures and Modalities 60 Minutes	\$ 68.00
Pt and Rehab Evaluation	\$ 75.00
Initial Ot Evaluation	\$ 70.00
Ot 30 Minutes	\$ 26.00
Ot 45 Minutes	\$ 39.00
Ot 60 Minutes	\$ 52.00

EPSDT Health Services

Procedure Name	New Rate
Electrical Stimulation	\$ 17.00
Pt-One Area-Therapeutic-30 Minutes	\$ 17.00
Pt-Neuromuscular Reed-30 Minutes	\$ 17.00
Pt-Gait Training-30 Minutes	\$ 34.00
Orthotic Training	\$ 14.00
Kinetic Act One Area-30 Minutes	\$ 14.00
Physical Performance Test	\$ 14.00
Physical Therapy Evaluation/Re-Evaluation	\$92.00
Occ Therapy Evaluation/Re-Evaluation	\$ 70.00
Speech/Language Evaluation/Re-Evaluation	\$ 70.00
Speech/Language Therapy 30 Minutes	\$ 26.00
Speech/Language Therapy add 15 Minutes	\$ 13.00
Group Sp Lang Hear Therapy 1/2 Hour	\$ 26.00
Speech Group Therapy 20 Minutes	\$ 13.00
Speech Group Therapy Add 15 Minutes	\$ 13.00
Group Sp Lang Hear Therapy 1 Hour	\$ 52.00
Speech Lang Hearing Therapy 20 Minutes	\$ 17.00
Sp/Lan/Hear Therapy 60 Minutes	\$ 52.00
Procedures And Modalities 30 Minutes	\$ 34.00
Procedures And Modalities 45 Minutes	\$ 52.00

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, 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

0310#079

DECLARATION OF EMERGENCY

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

State Hospitals
Reimbursement Methodology
Upper Payment Limit

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 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.

In compliance with House Bill 1 of the 2003 Louisiana Legislative Session, the bureau promulgated an Emergency Rule to utilize the upper payment limit for state government-owned or operated hospitals as set forth in the 42 CFR §447.272(b) and §447.321(b) (*Louisiana Register, Volume 29, Number 7*), 42 CFR §447.272(b) and §447.321(b) states as follows: "General RulesC(1) Upper payment limit refers to a reasonable estimate of the amount that would be paid for the services furnished by the group of facilities under Medicare payment principles in Subchapter B of this Chapter." This Rule is being promulgated to continue the provisions of the July 3, 2003 Emergency Rule. This action is being taken to enhance federal revenues in the Medicaid Program.

Emergency Rule

Effective November 1, 2003, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will utilize the upper payment limit for state government-owned or operated hospitals as set forth in the 42 CFR §447.272(b) and §447.321(b). The hospital payment differential for any year shall be the difference between the upper limit of aggregate payments to state government-owned or operated hospitals, as defined in the 42 CFR §447.272(a)(1) and §447.321(a)(1), and the aggregate Medicaid reimbursement paid to these hospitals for the year.

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, 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

0310#081

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Corrections Services

Youth Placement Review Process (LAC 22:I.309)

In accordance with the provisions R.S. 49:953, the Louisiana Department of Public Safety and Corrections, Corrections Services (Department), hereby determines that adoption of an Emergency Rule for implementation of the Youth Placement Review Process mandated by Act No. 1225 of the 2003 Regular Session of the Louisiana Legislature is necessary and that for the following reasons failure to adopt the Rule on an emergency basis will result in imminent peril to the public health, safety and welfare.

Act. No. 1225 mandates, by December 31, 2004, that the department no longer operate the Swanson Correctional Center for Youth-Madison Parish Unit (SCCY-M) as a secure care facility for juveniles. The Act also mandates that the department review every custody case under the jurisdiction of the department, including those coming into the system in the future, and determine if the juveniles in the system are placed in the least restrictive setting most appropriate to their needs, consistent with the circumstances of the case, while insuring the protection of the best interest of society and safety of the public within the state. department Regulation No. B-02-012, the Rule in question, is the procedure for conducting the review and effectuating the transition from secure to non-secure care if a youth meets the requirements of the screening process. It is estimated that the department will have to reduce the secure care custody in all other institutions by a total of at least 150 in order to accommodate the closing of SCCY-M, and to meet the required overall reduction in numbers of youths held in secure care at each institution. Act No. 1225 requires the department to adopt rules to initiate the review process and begin the transition of youths from secure care to non-secure care and to reduce the population. In conjunction with the Youth Placement Review Process is the need to evaluate department programs system-wide to identify possible sources of revenue to adequately fund the non-secure care contracts impacted by the transitioning out of secure care of the youths identified.

In order for the department to meet the statutorily imposed deadline to transition juvenile offenders and to effectuate the closure of SCCY-M in a timely manner, we must aggressively de-populate our secure juvenile facilities. The Administrative Procedures Act, R.S. 49:950 et seq., requires, unless a Rule is promulgated as an emergency rule, a period of approximately one hundred days between the filing of the initial notice of intent and the effective date of the Rule. Unless the department is able to proceed immediately, it is uncertain that the goal of moving all the youths at SCCY-M by the legislative deadline can be achieved. If that situation were to occur, there is a serious public safety risk associated with putting these high-risk youths in less than secure care custody. It would be extremely difficult to accommodate them at the other juvenile institutions given the population restrictions that would be in place at that time. In addition, the juvenile population is not a static situation. The department does not have any control over the sentencing

that will occur from this date forward with regard to juveniles. It is possible that there will be an upturn in secure care dispositions that would exacerbate the task of reviewing the population for non-secure care alternatives. The Department will have to insure that the funding for these transitions is done in a manner that will not jeopardize any existing programs essential to protecting the public health, safety or welfare. It is estimated that the cost will be approximately \$2.4 million in the first year, which must be taken from the current general fund appropriation. This is an imminent threat to the stability of the department, which impacts the public health, safety and welfare.

For the foregoing reasons, the Louisiana Department of Public Safety and Corrections has determined that the adoption of an emergency rule for implementation of the Youth Placement Review Process, department Regulation No.B-02-012, is necessary and hereby provides notice of its declaration of emergency. department Regulation No.B-02-012 was signed by the Secretary of the Department of Public Safety and Corrections and effective on September 15, 2003, in accordance with R.S. 49:953. This Emergency Rule shall be in effect for the maximum period allowed under the Administrative Procedures Act or until adoption of the final Rule, whichever occurs first.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter A. General

§309. Youth Placement Review Process

A. Purpose. To establish the secretary's policy regarding periodic placement reviews of all youth in the custody of the department in order to determine whether the youth is placed in a setting most appropriate to their needs consistent with the interests of public safety.

B. Applicability. Assistant Secretary of the Office of Youth Development, wardens of juvenile facilities, Probation and Parole Director/Juvenile, and Probation and Parole District Managers.

C. Policy. Notwithstanding the provisions of any other regulation to the contrary, it is the secretary's policy, in accordance with R.S. 15:902.3, to authorize a periodic placement review process whereby all youth in the department's custody are screened in a multi-disciplinary placement review process. Following an initial review of all custody cases, the review for secure care shall occur no less than quarterly and in conjunction with custody reclassifications. For non-secure programs, the review shall occur in conjunction with semi-annual placement reviews or upon successful completion of the placement program. The review will determine whether the youth is placed in the setting most appropriate to their needs consistent with public safety interests, based upon a formal criteria established through department policy.

D. Definitions

Adjudication After the presentation of evidence, or the entering of a plea, the entering of a judgment by the court which indicates whether the facts as alleged in the petition forming the basis of the action have been proven, i.e. whether the family is in need of services or the child committed the delinquent act.

Aftercare the control, supervision and care exercised over a youth upon exit from a secure facility or non-secure residential program into the community.

Fourteen Legal Days fourteen calendar days except when the 14th day ends on a weekend or legal holiday. When this occurs, the period extends to the close-of-business on the next day that is not a weekend or legal holiday. The 14-day timeframe begins the day after the filing of a legal document with the court.

Louisiana Children's Code Article 897.1 requires that juveniles who are adjudicated delinquent for any of six most serious violent crimes (first degree murder, second degree murder, aggravated rape, aggravated kidnapping, armed robbery, and treason) must remain in a secure environment until the disposition ends. Except for armed robbery, dispositions rendered under provisions of this Article must extend until the 21st birthday.

Non-Secure Non-Residential Program provides rehabilitative services to a youth who resides at home. The youth may receive the services in his home or at a central location to which he reports daily. Youth served may be in custody or on probation or parole.

Non-Secure Residential Program provides housing, supervision and rehabilitative care for youth in the custody of the department primarily between the ages of 12-17. These facilities are usually characterized by a lack of physical security such as perimeter fences, security locks and controlled access to the facility.

Secure Care facilities for adjudicated delinquents providing treatment and education characterized by facility design including such things as perimeter fences, security locks, supervision, and staff control that restricts on a 24-hour basis the ability of residents to enter or leave the premises.

Youth CARE system wide positive behavior management program based upon principals of adolescent growth and development.

E. Placement review process of non-secure care youth

1. Youth in non-secure residential programs will be reviewed to determine the appropriateness of transition to a less restrictive setting. Screening criteria to be used in identifying youth to be reviewed are as follows:

- a. in a residential program five months or more; or
- b. FINS adjudication regardless of length of time in a residential program.

2. A review team in each Probation and Parole district office will review cases which meet the above criteria. The review team will consist of, but not be limited to, the following individuals:

- a. district manager;
- b. residential facility representative;
- c. placement officer from district of origin;
- d. treatment provider as necessary;
- e. unbiased individual;
- f. youth; and
- g. youth's parent/guardian.

3. The review will consist of discussion and evaluation of the youth's progress and needs in the areas of:

- a. educational/vocational needs/progress;
- b. medical concerns;
- c. mental health concerns;

d. general treatment needs/progress in the areas of substance abuse, anger management, cognitive behavior, etc.;

- e. behavioral concerns;
- f. home environment;
- g. review of community risk assessment;
- h. aftercare plans;
- i. special needs concerns (i.e. SMI, low cognitive abilities, special education disabilities, psychotropic medication needs);
- j. availability of services to address needs, especially special needs youth;
- k. most recent case staffing findings; and
- l. availability of services in the community.

4. A determination of the appropriate course of action regarding the youth's placement will be made by the participants. Once a determination is reached, the plan will be developed. Following the review, if the recommendation is to transition the youth into a less restrictive setting, the DYS district office will submit a motion to modify disposition to the appropriate attorney for review and signing. The motion will then be returned to the DYS for filing with the clerk of court and submission to the court. The motion shall include the following:

- a. recommendation;
- b. relevant documentation supporting the recommendation, including, but not limited to, the risk and needs assessments; and
- c. aftercare plan.

5. The court will have 14 legal days to do one of the following:

- a. make no response during the 14 day period, in which case the District Office shall proceed with the recommendation;
- b. reject the recommendation and deny the motion;
- c. notify the department in writing that there is no objection and accept the motion as orders of the court; or
- d. schedule a future hearing and issue an order rejecting, modifying, or accepting the recommendation after the hearing.

6. All motions will be delivered to the clerk of court and a copy of the stamped motion will be obtained for Probation and Parole records. At the same time that the motion is submitted to the court, the appropriate sheriff's office and any registered crime victim, if applicable, shall also be notified.

7. Each Probation and Parole district office will maintain a document listing all youth who met the criteria for review for transition to a less restrictive setting. This document will include the results of the review and the rationale for the recommendation.

F. Placement Review Process of Secure Care Youth

1. Youth currently in secure care will be reviewed to determine the appropriateness of a transfer to a less restrictive setting. The placement criteria process will be conducted at each facility through a multi-disciplinary team activity that will take into consideration multiple aspects of the youth's classification profile to determine if the youth is placed in the most appropriate setting.

2. The team will be composed of the following individuals:

- a. deputy warden, chairperson;

- b. education;
- c. dorm security;
- d. program manager;
- e. youth's case manager;
- f. LSUHSC staff (if needed);
- g. treatment provider (if needed);
- h. DYS representative (via phone conference);
- i. youth;
- j. youth's parent/guardian(s) (in person, via phone conference, and/or prior interview).

3. The multi-disciplinary review process will include a thorough review and assessment of the youth's needs, strengths and weaknesses. At a minimum, the multi-disciplinary team will consider the following prior to recommending placement:

- a. educational/vocational needs/progress;
- b. medical concerns;
- c. mental health concerns;
- d. general treatment needs/progress in the areas of substance abuse, anger management, cognitive behavior, etc.;
- e. behavioral concerns;
- f. level of participation in YouthCARE;
- g. home environment;
- h. custody level (both prior and present);
- i. review of community risk assessment;
- j. proposed aftercare/release plans;
- k. special needs concerns (i.e. SMI, low cognitive abilities, special education disabilities, psychotropic medication needs);
- l. availability of services to address needs, especially special needs youth; and
- m. most recent secure custody screening document (must have been done within the last year).

4. A schedule of the multi-disciplinary review activities will be issued by the deputy warden and disseminated to all department heads and team members. In an effort to better promote parental/guardian input, the case manager will make telephone contact and/or formal written correspondence with the youth's parent/guardian about the scheduled date and approximate time of the multi-disciplinary activity. If any member of the multi-disciplinary team is not represented at the staffing, written comments or reports shall be used in the staffing to ensure education, medical, mental health, recreation and security activities are considered.

5. A determination of the appropriate course of action regarding the youth's placement will be made by the participants. Once a determination is reached, the plan will be developed. Following the review, if the recommendation is to transition the youth into a less restrictive setting, the DYS District Office will submit a motion to modify disposition to the appropriate attorney for review and signing. The motion will then be returned to the DYS office for filing with the clerk of court and submission to the court. The motion shall include the following:

- a. recommendation;
 - b. relevant documentation supporting the recommendation, including, but not limited to, the risk and needs assessments; and
 - c. aftercare plan.
6. The court will have 14 legal days to do one of the following:
- a. make no response during the 14 day period, in which case the district office shall proceed with the recommendation;
 - b. reject the recommendation and deny the motion;
 - c. notify the department in writing that there is no objection and accept the motion as orders of the court; or
 - d. schedule a future hearing and issue an order rejecting, modifying, or accepting the recommendation after the hearing.

7. All motions will be delivered to the clerk of court and a copy of the stamped motion will be obtained for Probation and Parole records. At the same time that the motion is submitted to the court, the appropriate sheriff's office and any registered crime victim, if applicable, shall also be notified.

8. Each Probation and Parole district office will maintain a document listing all youth who met the criteria for review for transition to a less restrictive setting. This document will include results of the review and the rationale for the recommendation.

G. Quality assurance. A copy of all screening forms, as well as multi-disciplinary team review forms, are to be maintained for a period of three years as a component of system quality assurance.

H. Procedures. Refer to Attachment A for Risk Screening Document and Attachment B for Secure Screening/Data Collection Form.

I. The effective date of this regulation is September 15, 2003.

Office of Youth Development
Risk Screening Document

Offender:	Date of Current Rating:	JIRMS#		
Most Serious Present Adj. Offense:		Date of Disposition:		
1.	<u>Age at First Adjudication</u>	<u>Score</u>		
	Age 12 or younger	(10)		
	Age 13	(07)		
	Age 14	(05)		
	Age 15 or older	(02)		
2.	<u>Severity of Present Adjudicated Offense</u>			
	High Severity: L. R. S. 14.2, and Ch. C. Art 897.1	(10)		
	Moderate Severity: All other felonies	(06)		
	Low Severity: All misdemeanors and FINS	(03)		
3.	<u>Most Serious Prior Adjudicated Offense</u>			
	High Severity (see above)	(05)		
	Moderate Severity (see above)	(03)		
	Low Severity (see above)	(01)		
	No Prior Adjudicated Offense record	(00)		
4.	<u>Number of Prior Adjudications</u>			
	Four or more Felony adjudications	(10)		
	Three Felony or four or more Misdemeanor offenses	(05)		
	Two Felony grade offenses or three Misdemeanor offenses	(03)		
	One Felony or two Misdemeanors/FINS adjudications	(01)		
	One prior misdemeanor or one Prior FINS or No Prior Adjudications	(00)		
5.	<u>History of Probation or Parole Supervision or DPS&C Custody</u>			
	Current	(02)		
	Within past 12 months	(01)		
	No Prior History of Supervision or Custody	(00)		
6.	<u>Number of Out-of-Home Placements</u>			
	Non-Secure	Secure		
	Three or more	or	One or more	(02)
	One or Two			(01)
	No Prior Out-of-Home Placement(s)			(00)
7.	<u>Prior Escapes or Runaways</u>			
	From a Secure facility (more than once)	(03)		
	From a Secure facility (1) or Non-Secure (2 or more times)	(02)		
	From a Non-Secure facility once (1)	(01)		
	No Prior Escapes or Runaways	(00)		
	Total Score	_____		

Supervision Level based on above score:

Level	Assessment
Red	12 and above
Yellow	11 and Lower

Administrative/Case Review Report

Identifying Information

Youth's Name:
Youth's Date of Birth:
Petition Number(s) for CNF or CND:

Placing District:
Placing District PPO:

Review

Date of Initial Placement:
Date of Initial Plan:

Date of Last Review: N/A
Date of Current Review:

Facility Information

Name of Facility:
Address:

Phone Number:

**Reason Youth Entered Care:
Placement History:**

Judicial Determination

Was court recommendation regarding placement followed? Yes No

If no, why not?

Was Judicial Determination of Reasonable Efforts documented? Yes No

If no, why not?

Criteria For Placement

Did the Psychological Evaluation recommend Non-secure Placement? Yes No

If no, explain:

Change In Placement

Has there been a change in placement since the last review? Yes No

If yes: Date of Current Placement:
Date Written Notification sent to Court:
Explain Reason for Change in Youth's Placement:

Appropriateness of Placement

Discuss appropriateness of services provided at this facility, which match this youth's specific needs, as identified in the Psychological Evaluation or Individual Service Plan:

Is Facility a Safe Setting in the best interests and needs of the youth? Yes No

Is the Facility Liscensed by DSS, Bureau of Liscensing? Yes No

If no, explain:

Is the Facility monitored by the Office of Youth Development as per Department Regulation C-05-003?

Yes No

Date of last monitoring:

Close Proximity

Is this the closest facility available, which best meets the needs of this youth? Yes No

If no, explain:

Least Restrictive

Is this the least restrictive environment available which best meets the youth's specific needs?

Yes No

If no, explain:

Identify Previous Need Areas

- | | |
|--|--|
| <input type="checkbox"/> Family | <input type="checkbox"/> Peer Relationships |
| <input type="checkbox"/> Drug Use | <input type="checkbox"/> Employment |
| <input type="checkbox"/> Alcohol Use | <input type="checkbox"/> Sexual History |
| <input type="checkbox"/> Emotional Stability | <input type="checkbox"/> Physical Health |
| <input type="checkbox"/> School/Education | <input type="checkbox"/> Independent Living Skills |

Current Need Areas

Family

Youth's Current Status:
Discussion of Progress Towards Meeting Goals:
Measurement of Progress:
Explain:

Drug Use

Youth's Current Status:
Discussion of Progress Towards Meeting Goals:
Measurement of Progress:
Explain:

Alcohol Use

Youth's Current Status:
Discussion of Progress Towards Meeting Goals:
Measurement of Progress:
Explain:

Emotional Stability

Youth's Mental Health Diagnosis:
Youth's Current Status:
Discussion of Youth's Psychotropic Medications:
Discussion of Progress Towards Meeting Goals:
Measurement of Progress:
Explain:

School/Education

Name of School: Type:

Is the current IEP (Individual Education Plan) in the file? Yes No

Youth's Current Status - Performance/Grades:

Youth's Current Status - Attendance:

Youth's Current Status - Behavior/Discipline:

Discussion of Progress Towards Meeting Goals:

Measurement of Progress:

Explain:

Peer Relationships

Youth's Current Status:

Discussion of Progress Towards Meeting Goals:

Measurement of Progress:

Explain:

Employment

Youth's Current Status:

Discussion of Progress Towards Meeting Goals:

Measurement of Progress:

Explain:

Sexual History

Youth's Current Status:

Discussion of Progress Towards Meeting Goals:

Measurement of Progress:

Explain:

Physical Health

Has there been a change in Medical/Dental Providers since last Kid Med form? Yes No

Youth's Current Status:

Discussion of Youth's Non-Psychotropic Medications and Immunizations in last six months:

Is the current Immunization Record in the file? Yes No

Discussion of Progress Towards Meeting Goals:

Measurement of Progress:

Independent Living Skills (if youth is/will be 16 before next review)

Youth's Current Status:

Briefly Describe the Independent Living Services Provided by the Facility:
Discussion of Progress Towards Meeting Goals:
Measurement of Progress:

Measurement of Progress

Number of Need Areas Completed:
Number of New Need Areas:
Number of Remaining Need Areas:

Permanency Plan

Hearing Scheduled: at
Identify the Permanent Plan:
Return to Parent/Guardian:
Place with a relative:
Emancipation/Independent Living: Explain why:
Date Staffed with OCS for Termination of Parental Rights Prior to 11 Month Review:
If not, explain:

Visitation Plan

Is Visitation between the youth and Permanent Plan appropriate? Yes No

If No, why?

Has the facility Visitation Plan been discussed with the Permanent Plan? Yes No

If No, why?

Does the youth participate in Home Passes with the Permanent Plan? Yes No

Discussion of the Home Passes:
Discussion of Family Visits at Facility:

Panel's Recommendation regarding Continued Need for Placement

The Compelling Reason why this youth continues to require placement:
Projected Release Date:

Comments

Youth:

Family:

Facility:

PPO:

Other:

Signatures are attached.

	Signatures	Notified	Attended	Date
Youth		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Parent/Guardian		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Parent/Guardian		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Facility Representative		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
PPO		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Supervisor/DM		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Program Specialist		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Others:		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	
Administrative Review Panelist:		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	

If any party failed to be notified of review, explain:
If any party has not, or refuses to sign, explain:

SECURE SCREENING/DATA COLLECTION FORM

YOUTH: _____ **JIRMS:** _____ **DORM:** _____

HISTORY: Prior and Present Custody Levels

Minimum Medium Maximum Date: _____

Minimum Medium Maximum Date: _____

Minimum Medium Maximum Date: _____

Secure Custody Screening Document

Total Score: _____ Date: _____

OFFENSE: _____ **FTD:** _____

IS YOUTH 897.1? Yes No

DATE OF COMMITMENT: _____ **DATE OF LAST QUARTERLY STAFFING:** _____

NUMBER OF SCHEDULE B VIOLATION FOUND TO BE VALID _____

PRIOR MODIFICATIONS: Yes No

*If yes, provide narrative (include date, specifics about modification, response by court)
Attach a copy*

IS YOUTH MAKING ADEQUATE PROGRESS IN MEETING GOALS OF IIP? Yes No

Explanation of Response: _____

ONE ON ONE INTERVIEW WITH YOUTH: _____ **DATE:** _____

SUMMARY OF MEETING : _____

PHONE CONTACT WITH PARENT: Yes No

PHONE NUMBER _____ (IF NO PHONE, WAS NOTIFICATION OF STAFFING SENT TO PARENT/GUARDIAN?)

PARENTAL CONCERNS: _____

Case Manager _____
Date

Note: *If the youth is an 897.1 youth, has less than 45 days to his/her full term date, had 10 or more validated schedule B violations, or has been in secure care for less than 90 days **do not complete** the CRM form. For all other youth, the CRM form is to be completed prior to the multi-disciplinary staffing.*

AUTHORITY NOTE: Promulgated in accordance with Act 1225 of the 2003 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, Office of the Secretary, LR 30:

Richard L. Stalder
Secretary

0310#001

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

Withholding by Professional Athletic Teams (LAC 61:I.1520)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allows the Department of Revenue to use emergency procedures to establish Rules, R.S. 47:1511, which allows the Department to make reasonable rules and regulations, and R.S. 39:100.1(D) that authorized the Secretary of Revenue to prescribe regulations necessary to carry out the purposes of R.S. 39:100.1, the Secretary of Revenue hereby finds that imminent peril to the public welfare exists and accordingly adopts the following Emergency Rule. This Emergency Rule shall be effective October 1, 2003, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final Rule, whichever comes first.

This Emergency Rule is necessary to implement recent legislative changes to the Sports Facility Assistance Fund and to allow the Department of Revenue to effectively and efficiently attribute the income tax collected from nonresident professional athletes to the Sports Facility Assistance Fund. A delay in promulgating this Rule would have an adverse impact on the facilities that receive appropriations through the Sports Facilities Assistance Fund.

Act 1203 of the 2001 Regular Session enacted R.S. 39:100.1, which created a fund in the state treasury called the Sports Facility Assistance Fund (the Fund). Each year, the treasurer must pay into the Fund an amount equal to the income tax collected by the state from nonresident professional athletes and professional sports franchises on income earned in Louisiana. The monies in the fund are appropriated dollar-for-dollar to the owners of the facilities at which the money that generated the income tax was earned. The purpose of this Emergency Rule is to enable the Department of Revenue to collect income tax from nonresident professional athletes and to accurately attribute the income tax collected to the fund.

Act 119 of the 2003 Regular Session enacted R.S. 39:100.1(D) that authorized the Secretary of Revenue to prescribe regulations necessary to carry out the purposes of R.S. 39:100.1. This Emergency Rule will require periodic withholding for professional athletic teams domiciled outside Louisiana on their nonresident team members. It will also clarify that these teams are required to follow current withholding provisions for their team members who are residents of Louisiana.

Title 61

REVENUE AND TAXATION

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

Chapter 15. Income: Withholding Tax.

§ 1520. Withholding by Professional Athletic Teams

A. Definitions

Nonresident Any person not domiciled, residing in, or having a permanent place of abode in Louisiana.

Professional Athletic Team A member team of a professional sports association or league.

Team Member shall include those employees of a professional athletic team who are active players, players on the disabled list, and any other persons required to travel and who travels with and perform services on behalf of a professional athletic team on a regular basis. This definition includes, but is not limited to, coaches, managers, and trainers.

B. Withholding Requirement for Nonresident Team Members

1. Professional Athletic Teams not Domiciled in Louisiana

a. Any professional athletic team that is not domiciled in Louisiana and that pays compensation to a nonresident individual for services rendered to the team within Louisiana shall be deemed to be an employer making payment of wages and shall be required to withhold Louisiana individual income tax from that portion of the compensation for services rendered to the team attributable to "duty days" spent in Louisiana, as defined in LAC 61:I.1304(I), for each game played in Louisiana.

b. This section does not alter the professional athletic team' withholding requirements for team members who are residents of Louisiana. The withholding for these team members must be as provided for in R.S. 47:111.

2. Professional athletic teams with a Louisiana domicile. Professional athletic teams that are domiciled in Louisiana must withhold for all team members as provided for in R.S. 47:111.

3. This section does not alter any professional athletic team member's requirement to file the income tax schedule required under LAC 61:I.1305.

C. Rate of Withholding. The withholding tax rate under this section shall be 4.2 percent of the compensation attributable to "duty days" spent in Louisiana.

D. Due Date of Withholding Return and Payment. A withholding return and payment must be submitted for each game played in Louisiana. The withholding return and payment must be submitted on or before the last day of the month following the month in which the game was played.

E. Account Numbers

1. Each professional athletic team not domiciled in Louisiana will be issued an identification number by the Department.

2. The professional athletic team filing the withholding return must be clearly identified by name, address and Louisiana revenue account identification number. The team's federal employer identification number will not be accepted as a substitute. The withholding return will not be considered complete unless the team's Louisiana revenue account identification number is on the return.

F. Annual Reconciliation Schedule

1. All professional athletic teams that pay compensation to a nonresident individual for services rendered to the team within Louisiana must submit an annual withholding reconciliation schedule that includes a list of all team members who received Louisiana source income during the year. The list must include the following information:

- a. the name, social security number, and permanent physical address of all team members regardless of residency, and
- b. for each nonresident team member:
 - i. the total number of duty days spent with the team during the taxable year;
 - ii. the number of duty days spent in Louisiana;
 - iii. the total amount of compensation for services rendered to the team;
 - iv. the amount of compensation for services rendered to the team in Louisiana; and
 - v. the total amount deducted and withheld under this Section.

2. The annual reconciliation schedule is due on or before the first business day following February 27 of each year for the preceding calendar year. The secretary may grant a reasonable extension of time, not exceeding thirty days for the filing of the annual reconciliation schedule. The annual reconciliation schedule is not considered to be remitted until it is complete.

3. The permanent address listed on the annual reconciliation schedule will be presumed to be the residence of the team member for purposes of administering the Sports Facility Assistance Fund.

G Penalty for Failure to Timely Remit Schedules and Payments

1. The following penalties will be imposed for failure to timely remit these returns, schedules, and payments.

a. In the case of failure to timely remit any return or schedule required by this section, the penalty shall be \$500 for the first such failure, \$1,000 for the second such failure within the 3-year period beginning on the due date of the first delinquent return or schedule, and \$2,500 for each subsequent failure within the 3-year period beginning on the due date of the first delinquent return or schedule.

b. In the case of failure to timely remit any payment required by this section, the penalty shall be 5 percent of the total payment due if the delinquency is for not more than 30 days, with an additional five percent for each additional 30 days or fraction thereof during which the delinquency continues, not to exceed 50 percent of the amount due.

H. Exception to Withholding Requirement under this Section

1. The secretary may grant an exception to withholding requirements under this section to any professional athletic team not domiciled in Louisiana that agrees in writing to file team composite returns and remit composite payments as provided in LAC 61:I.1304(J).

2. The composite return and composite payment will be considered to be a return and payment required by the secretary to administer the provisions of the Sports Facility Assistance Fund.

3. This agreement will be binding on the secretary and the professional athletic team until it is revoked. Either party may revoke this agreement.

AUTHORITY NOTE: Adopted in accordance with R.S. 39:100.1, R.S. 47:164(D), R.S. 47:295, R.S. 47:1511, and R.S. 47:1602.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 30:

Cynthia Bridges
Secretary

0310#048

DECLARATION OF EMERGENCY

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

**Food Stamp Program Time Limitations for Certain Aliens
(LAC 67:III.1932 and 1995)**

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 October 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 and 1995 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 qualified aliens under the age of 18 regardless of date of entry into the United States and eliminates the deeming requirements for any alien under the age of 18 that count the income and resources of alien sponsors when determining Food Stamp eligibility and benefit amounts.

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.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter D. Citizenship and Alien Status

§1932. Time Limitations for Certain Aliens

A. - A.5. ...

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

1. - 5. ...

6. effective October 1, 2003, individuals who are lawfully residing in the United States and are under 18 years of age;

7. ...

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), LR 29:606 (April 2003), LR 30:

Subchapter J. Determining Household Eligibility and Benefit Levels

§1995. Sponsored Aliens

A. The full amount of income and resources of an alien's sponsor and the sponsor's spouse are counted in determining the eligibility and allotment level of a sponsored alien until the alien becomes a citizen or has worked 40 qualifying quarters of Social Security coverage. These provisions do not apply to battered aliens, their children, or the alien parent of a battered child, or effective October 1, 2003, any alien under 18 years of age.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.11, P.L. 104-193, P. L. 104-208, P. L. 105-33, and P. L. 107-171.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), LR 24:355 (February 1998), LR 30:

Gwendolyn P. Hamilton
Secretary

0310#009

DECLARATION OF EMERGENCY

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

Strategies to Empower People (STEP) Program
(LAC 67:III.Chapters 12, 19, 51, 53, and 57)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt LAC 67:III, Subpart 16, Chapter 57, Strategies to Empower People (STEP) Program and to amend Subpart 2, Chapter 12, Family Independence Temporary Assistance Program (FITAP), Subpart 3, Chapter 19, Food Stamps, Subpart 12, Chapter 51, Child Care Assistance Program (CCAP), and Subpart 13, Chapter 53, Kinship Care Subsidy Program (KCSP) effective October 1, 2003. This Rule shall remain in effect for a period of 120 days.

In order to assist Louisiana families in becoming economically self-reliant so that their dependence on government benefits is minimized, the department will implement the STEP Program so that all work-eligible cash assistance recipients are actively engaged in activities designed to enable their transition from cash assistance to self-reliance. It is further intended that cash assistance recipients demonstrate active and diligent personal responsibility in achieving self-reliance through employment and increased workplace literacy.

The STEP program will replace the Family Independence Work Program (FIND Work). As a result of this implementation, changes are necessary to the FITAP, Food Stamp, CCAP and KCSP programs so that language concerning FIND Work can be replaced with language reflecting the STEP program as well as other changes necessitated by the implementation of STEP. The FIND Work Program will be repealed once the STEP Program is fully implemented and FIND Work participants have been transitioned into the STEP Program.

The authorization for emergency action is contained in

Act 14 of the 2003 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 2. Family Independence Temporary Assistance Program

Chapter 12. Application, Eligibility, and Furnishing Assistance

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

§1209. Notices of Adverse Actions

A. A notice of adverse action shall be sent at least 13 days prior to taking action to reduce or terminate benefits. In some circumstances advance notice is not required. A concurrent notice shall be sent to the client at the time of action in the following situations:

- 1 - 9. ...
- 10. Repealed.
- 11. - 17. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B. and R.S. 46:237; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), amended LR 26:349 (February 2000), LR 29:2565 (December 2002), LR 30:

§1213. Domestic Violence

A. The secretary shall waive, for as long as necessary, pursuant to a determination of good cause, any public assistance program requirement that will create obstacles for a victim of domestic violence to escape a domestic violence situation, including but not limited to, time limits on receipt of assistance; work, training, or educational requirements; limitations on TANF assistance to noncitizens; child support or paternity establishment cooperation requirements; residency requirements; and any other program requirements which will create obstacles for such victim to escape violence or penalize that victim for past, present, and potential for abuse. However, a victim of domestic violence shall develop a plan that specifies the necessary actions, goals, and services that may enable the victim to become free of a domestic violence situation. This plan shall be made part of the participant's Family Success Agreement.

- B. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), LR 30:

Subchapter B. Conditions of Eligibility

§1221. Age Limit

A. A dependent child must be:

- 1. under 18 years of age; or
- 2. 18 years of age, enrolled in a secondary school or its equivalent, and expected to graduate on or before his nineteenth birthday.

- B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.2; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2448 (December 1999), LR 30:

§1231. Immunization

A. Failure to follow the schedule of immunizations as promulgated by the Louisiana Office of Public Health for any child under 18 years of age, without good cause, shall result in case closure.

1. The appropriate STEP sanction shall be imposed on a work-eligible family.

2. The case of a family that is not work-eligible shall be closed for at least one month and until the child is in compliance.

B. No person is required to comply with this provision if that person or his/her parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or his/her parent or guardian objects to the procedure on religious grounds.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.4; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999), LR 30:

§1237. School Attendance

A. Work-eligible FITAP recipients must meet the school attendance requirements outlined in LAC 67:III.Chapter 57.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.3; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2452 (December 1999), LR 30:

§1239. Assignment of Support Rights and Cooperation with Support Enforcement Services

A. - B.2.d. ...

3. Failure to cooperate in establishing paternity or obtaining child support will result in case closure. The appropriate STEP sanction shall be imposed on a work-eligible family. The case of a family that is not work-eligible shall be closed for at least one month and until the family cooperates.

B.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2452 (December 1999), LR:30:

§1241. Sanctions for Refusal to Accept a Job

A. Refusal to accept a job will result in the appropriate sanction being imposed on a work-eligible family.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2452 (December 1999), amended LR 30:

§1243. Work Requirements

A. Recipients must meet the work requirements outlined in LAC 67:III.Chapter 57.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.7., 46:231.8 and 46:231.9; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR 30:

§1245. Parenting Skills Education

A. Recipients must meet the requirements for parenting skills education as outlined in LAC 67:III.Chapter 57.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.5; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR:30

§1247. Time Limits

A. The Office of Family Support shall deny FITAP cash benefits to families if the parent has received FITAP for at least 24 months, whether consecutive or not, during the prior 60-month period. Only months of FITAP receipt after the January 1, 1997 date of implementation count toward the 24-month limit.

B. The following situations represent exemptions from the 24-month time limit:

1. the household contains a permanently incapacitated or disabled individual; or

2. for months after June 1999, the household contains a recipient who received the earned income disregard.

C. An extension of the 24-month time limit may be granted in the following situations.

1. An individual has been actively seeking employment by engaging in appropriate job-seeking activities and required work activities as specified in the participant's Family Success Agreement (FSA) but is unable to find employment;

2. Factors relating to job availability are unfavorable.

3. An individual loses his job as a result of factors not related to his job performance.

4. An extension of benefits of up to one year will enable an individual to complete employment-related education or training, including workplace literacy, and is required as part of an FSA, where an individual has received an assessment that indicates such activities will likely result in long-term success in the workforce.

5. Other hardships have occurred which affect the individual's ability to obtain employment.

D. Eligibility for cash assistance under a program funded by Part IV of the Social Security Act is limited to a lifetime limit of 60 months. No cash assistance will be provided to a family that includes an adult who has received assistance for 60 months (whether or not consecutive) unless one of the following hardships exists (in households with two caretaker relatives, both caretaker relatives must meet at least one of these criteria):

1. an individual has been actively seeking employment by engaging in appropriate job-seeking activities and required work activities as specified in the participant's Family Success Agreement (FSA) but is unable to find employment;

2. factors relating to job availability are unfavorable;

3. an individual loses his job as a result of factors not related to his job performance;

4. an extension of benefits of up to one year will enable an individual to complete employment-related education or training, including workplace literacy, and is

required as part of an FSA, where an individual has received an assessment that indicates such activities will likely result in long-term success in the workforce;

5. other hardships have occurred which affect the individual's ability to obtain employment.

E. Any month for which such assistance was provided will be disregarded from the 24- and 60-month time limits with respect to the individual, if the individual was:

1. a minor child; and
2. not the head of a household or married to the head of a household.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.6. and R.S. 46:460.5(A)(3); Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR 26:349 (February 2000), LR 27:2263 (December 2001), LR 30:

§1249. Drug Screening, Testing, Education and Rehabilitation Program

A. - D. ...

E. Failure to Cooperate. Failure or refusal of a recipient to participate in drug screening, testing, or participation in the education and rehabilitation program, without good cause, will result in case closure.

1. The appropriate STEP sanction shall be imposed on a work-eligible family.
2. The case of a family that is not work-eligible shall remain closed for at least one month and until the client has complied.

F. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR:30

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter I. Income and Deductions

§1983. Income Deductions and Resource Limits

A. - A.2. ...

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

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

B. ...

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

P.L. 107-171; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:285 (May 1986), amended LR 12:423 (July 1986), LR 12:824 (December 1986), LR 13:181 (March 1987), LR 14:684 (October 1988), LR 15:14 (January 1989). Amended by the Department of Social Services, Office of Family Support, LR 19:303 (March 1993), LR 19:905 (July 1993), LR 20:780 (July 1994), LR 20:990 (September 1994), LR 21:186 (February 1995), LR 23:82 (January 1997), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 29:607 (April 2003), LR 30:

§1987. Categorical Eligibility for Certain Recipients

A. Households Considered Categorically Eligible

Households in which a member is a recipient of benefits from the FITAP, STEP, and/or Kinship Care Subsidy Programs, and households in which all members are recipients of SSI, shall be considered categorically eligible for food stamps.

A.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274; F.R. 56:63612-63613, P.L. 104-193, 7 CFR 273.2(j)(2)(xi); Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended LR 12:755 (November 1986), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 24:1783 (September 1998), LR 26:349 (February 2000), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 30:

Subpart 12. Child Care Assistance Program

Chapter 51. Child Care Assistance

§5103. Conditions of Eligibility

A. Family Independence Temporary Assistance Program (FITAP) recipients who are satisfactorily participating in the Strategies to Empower People (STEP) Program, as determined by the case worker, are categorically eligible. The program will pay 100 percent of the FITAP/STEP participant's child care costs, up to the maximum amounts listed in 5109.B. The following eligibility criteria must be met:

A.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193; Act 58, 2003 Reg. Session.

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 30:

§5105. Funding Availability

A. Louisiana's share of the national total of available funds for child care programs is based on factors determined by federal law and regulation. Funds are appropriated by Congress and allocated on an annual basis so that a limited amount of federal funding is available each year through the Child Care and Development Fund (CCDF). Therefore, a determination will be made of the number of children, or "slots," that the CCDF can pay for based on available funding.

1. The children of STEP participants shall be categorically eligible for child care benefits. The children of STEP participants whose FITAP eligibility is terminated due to earned income will be given priority status with slots available for them as long as other eligibility factors are met and funding is available.

2. - 2.a. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 26:2827 (December 2000), LR 30:

§5107. Child Care Providers

A. The head of household, or parent/caretaker relative in the case of a STEP participant, shall be free to select a child

care provider of his/her choice including center-based child care (licensed Class A Day Care Centers and licensed Class A Head Start Centers which provide before-and-after school care and/or summer programs), registered Family Child Day Care Homes, in-home child care, and public and non-public BESE-regulated schools which operate kindergarten, pre-kindergarten, and/or before-and after school care programs.

B. - C. ...

D. Under no circumstance can the following be considered an eligible child care provider:

- 1. ...
2. the child's parent or guardian; or
3. parent/caretaker relative in the case of a STEP

participant, regardless of whether that individual lives with the child (if the child's non-custodial parent is residing in the Family Child Day Care Home (FCDCH) in which the child receives care and is not working during the hours that care is needed, the FCDCH provider is ineligible to receive Child Care Assistance payments for that child);

D.3. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 152, 2002 First Extraordinary Session, Act 13, 2002 Reg. Session and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2444(December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:349 (February 2002), LR 28:1491 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:

§5111. Ineligible Payments

A. - B.2. ...

C. If an Intentional Program Violation is established, Fraud and Recovery will send a notice to the person to be disqualified and a copy of the notice to the parish office. The parish office will take action to disqualify for the appropriate situations:

- 1. - 2. ...
3. 24 months for the third violation and for any additional violations. EXCEPTION: The disqualification process will be waived for STEP participants and for participants in federally-or state-funded work or training programs.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2830 (December 2000), LR 30:

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

Subchapter B. Conditions of Eligibility

§5321. Age Limit

A. A dependent child must be:

- 1. under 18 years of age; or
2. 18 years of age, enrolled in a secondary school or its equivalent and expected to graduate on or before his nineteenth birthday.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B and R.S. 46:237; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:352 (February 2000), amended LR 30:

§5335. School Attendance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B and R.S. 46:237; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:354 (February 2000), repealed LR 30:

§5339. Parenting Skills Education

A. As a condition of eligibility for KCSP benefits any child under age 19 who is pregnant or the parent of a child under the age of one must attend a parenting skills education program. Failure to meet this requirement without good cause shall result in that minor's ineligibility. Ineligibility will continue until the child has complied.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:355 (February 2000), amended LR 30:

§5341. Drug Screening, Testing, Education and Rehabilitation Program

A. - C. ...

D. Failure to Cooperate. Failure or refusal of a recipient to participate in drug screening, testing, or participation in the education and rehabilitation program, without good cause, will result in ineligibility of the noncompliant individual. Cooperation is defined as participating in the component in which the recipient previously failed to cooperate. This includes drug screening, drug testing, or satisfactory participation for two weeks in an education and rehabilitation program.

E. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237; Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:355 (February 2000), amended LR 30:

Subpart 16. Strategies to Empower People (STEP) Program

Chapter 57. Strategies to Empower People (STEP) Program

Subchapter A. Designation and Authority of State Agency

§5701. General Authority

A. The Strategies to Empower People Program is established in accordance with state and federal laws effective October 1, 2003, to assist recipients of cash assistance to become self-sufficient by providing needed employment-related activities and support services.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5703. Program Administration

A. The STEP program will be administered by OFS State Office, Regional and Parish staff.

B. The Department of Social Services will coordinate with the Louisiana Workforce Commission, who will identify, direct, and coordinate the provision of employment

services offered through the STEP program. These services will include but are not limited to:

1. job readiness, job preparation, and job search;
2. workplace literacy and related assessments; and
3. applicable skill-based training, employer-based training, and other employment activities designed to meet the needs of Louisiana employers with a preference towards demand occupations.

C. The Louisiana Workforce Commission shall coordinate the provision of services utilizing the Department of Labor, one-stop services centers, the Louisiana Community and Technical College system, and the Department of Education adult literacy and community-based organizations.

D. A grievance procedure is available for resolving displacement complaints by regular employees or their representatives relating to STEP participants. A grievance procedure is also available for resolving complaints by, or on behalf of, STEP participants in a work-related activity. This grievance procedure hears complaints relating to on-the-job working conditions and workers' compensation coverage.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5705. Definitions

Family Assessment consists of an initial employability assessment and a comprehensive assessment.

1. Initial employability assessment is designed to determine the applicant's level of employability, immediate needs, and family circumstances during the application process.

2. Comprehensive assessment is conducted once the applicant is certified for eligibility and shall include workplace literacy, basic skills and educational attainment, interests and aptitude related to employment, barriers to employment, need for education, supportive services such as child care and transportation, and other supportive services. Specialized assessments can occur for issues that arise after an initial assessment has been completed and could include substance abuse, domestic violence, mental health screening, or others as determined by the department.

Family Success Agreement (FSA) the mutually developed contract between a Family Independence Temporary Assistance Program (FITAP) recipient, on behalf of their family, and the agency that sets forth mutual and time-bound responsibilities, expectations, activities, and goals designed to transition the family from receipt of FITAP to self-sufficiency.

Family Transition Assessment (FTA) mutually developed plan between a FITAP recipient, on behalf of their family, and the agency, for those families nearing the end of their FITAP eligibility to identify the action plan necessary to enable a successful transition from receipt of FITAP to self-sufficiency.

Strategies to Empower People (STEP) the program that provides education, employment, training and related services for families receiving FITAP assistance.

Temporary Exception a limited time period in which the *work-eligible recipient* does not have to participate in an assigned work activity due to temporary incapacity or

illness, unavailable child care, or a domestic violence situation.

Work-Eligible Family a FITAP family (including cases which do not receive cash because their benefit would be less than \$10) which includes at least one adult under age 60 or a teen head of household who is not permanently disabled or incapacitated, or who is not caring for a family member who is permanently disabled or incapacitated as documented by a medical professional.

Work-Eligible Recipient Can adult under age 60 or a teen head of household who is included in a *work-eligible family* and who is not permanently disabled or incapacitated, or who is not caring for a family member who is permanently disabled or incapacitated, as documented by a medical professional.

AUTHORITY NOTE: Promulgated in accordance with

P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5707. Domestic Violence

A. The secretary shall waive, for as long as necessary, pursuant to a determination of good cause, any public assistance program requirement that will create obstacles for a victim of domestic violence to escape a domestic violence situation, including but not limited to time limits on receipt of assistance, work, training or educational requirements, limitations on TANF requirements, residency requirements, and any other program requirements which will create obstacles for such victim to escape violence or penalize that victim for past, present, and potential for abuse. However, a victim of domestic violence shall develop a plan that specifies the necessary actions, goals, and services that may enable the victim to become free of a domestic violence situation. Such plan shall be made a component of the participant's Family Success Agreement.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

Subchapter B. Participation Requirements

§5709. School Attendance

A. Work-eligible FITAP recipients, in order to ensure appropriate child development, educational attainment, and school attendance for each minor child included in the assistance unit, shall agree in the Family Success Agreement (FSA) to:

1. actively participate in their child's education through parent-teacher conferences, homework assistance, or other activities; and

2. provide documentation to the department that they are ensuring school attendance and are engaged in the child's learning.

B. Work-eligible, minor parents who have not yet received a high school diploma or its equivalent shall attend school or related education classes designed to obtain a high school diploma or its equivalent. School attendance shall be the primary work activity for those minor parents who do not have a high school diploma or its equivalent.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5711. Parenting Skills Education

A. FITAP recipients who are pregnant or have a child under age one shall participate in parenting skills education. If the FITAP recipient is work-eligible, participation in parenting skills education shall be the primary work activity under the FSA. Applicable child care and transportation shall be provided to participants to enable their participation.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5713. Work Activities

A. Work-eligible recipients shall participate in appropriate work activities as agreed upon in the FSA. These activities may include but are not limited to:

1. subsidized or unsubsidized employment;
2. unpaid work experience;
3. on-the-job training;
4. job search;
5. job readiness;
6. vocational education;
7. attendance in secondary school for those individuals who have not graduated from high school;
8. participation in GED or basic skills training;
9. employment-related education;
10. job skills training;
11. community service; and
12. the provision of child care to an individual who is participating in community service.

B. Participants who are found not to possess basic workplace or basic literacy skills, as determined by an assessment, shall combine employment and job readiness and job search activities with activities designed to increase their basic and workplace literacy skills.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5715. Temporary Exceptions

A. A work-eligible applicant or recipient of cash assistance shall immediately participate in work activities for the minimum number of hours per week required by federal law unless one of the following exceptions applies. These temporary exceptions shall not exceed six months in a twelve-month period. The exceptions include:

1. temporary incapacity, illness or disability of household head as documented by a medical professional. The documentation shall include a description and reason for the incapacity, illness, or temporary disability, an indication of how long the condition is expected to persist, and a reasonable expectation of when the participant can return to a work activity. Incapacity, illness, or disability determined for a period of longer than six months shall be referred for eligibility to Supplemental Security Income assistance and to the Louisiana Rehabilitation Services;

2. inability to obtain appropriate child care; or
3. status as a victim of domestic violence based on evidence presented to the department which may include, but not limited to, information from law enforcement agencies or domestic violence providers. This exception shall only be granted if a participant develops a plan to address the domestic violence situation and incorporates this plan in the FSA.

B. During a period in which a participant receives a temporary exception to the work requirement, a revised FSA shall be developed to enable satisfactory progress toward meeting employment and educational activity requirements.

C. Participants who receive a temporary exception shall be informed that this time is counted against their time limits for receipt of cash assistance.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5717. Sanctions

A. Sanctions shall be used as a last resort to inform participants that they have not met the expectations set forth in the FSA. Participants shall be sanctioned for the following violations:

1. failure of the participant to provide documentation to the department that they are ensuring school attendance and are engaged with their child's learning;
2. failure of a work-eligible, minor parent with a child who has not yet received a high school diploma or its equivalent, to attend school or related education classes designed to obtain a high school diploma or its equivalent;
3. failure of a public assistance recipient who is pregnant or has a child under age one to attend parenting education and other training conducive to the unique needs of new parents;
4. failure of work-eligible families to meet the required employment and education activities for the minimum number of hours without good cause, as specified in the FSA; or
5. failure of work-eligible families to meet other requirements such as but not limited to immunization, cooperation with Support Enforcement Services, compliance with substance abuse screening, testing, treatment, etc. as specified in the FSA.

B. If it is determined that a work-eligible family has failed to meet the required activities as specified in the FSA without good cause, that family shall be ineligible for FITAP benefits as follows:

1. first sanctionCa minimum of one month or until compliance, whichever is longer;
2. second sanctionCa minimum of two months or until compliance, whichever is longer;
3. third or subsequent sanctionCa minimum of three months or until compliance, whichever is longer.

C. The following represent good cause for not complying with the requirements set forth in the FSA:

1. Appropriate child care or transportation is unavailable within a reasonable distance from the participant's home or worksite after efforts have been made, and assistance has been offered, to secure child care or transportation.

2. Situations related to domestic violence. Any participant that receives a good cause exception related to domestic violence shall complete a plan that specifies the necessary actions, goals, and services that may enable the victim to become free of the violence and incorporate this plan into their FSA.

3. Situations related to the treatment of a mental or physical illness, including substance abuse treatment, where there is verification that participation in required activities would impair a treatment plan of a mental health or medical

professional. Any participant that receives a good cause exception related to mental or physical illness shall incorporate the completion of the identified treatment plan in the FSA.

4. Temporary, short-term illness, or the temporary care of a family member who is ill, as documented by a medical professional.

5. Temporary emergency crisis, such as homelessness, fire, accident, dislocation due to natural causes, hurricane, flood, or similar circumstances that can be substantiated.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

Subchapter C. STEP Program Process

§5719. Family Assessment

A. A Family Assessment shall be completed on all FITAP/STEP applicants in order to assist the worker in identifying family strengths, weaknesses, opportunities and barriers as well as determining programs that the applicants will need to become self-sufficient.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5721. Job Readiness

A. A work-eligible applicant for cash assistance shall participate in job readiness activities as part of the core services available under STEP, unless the applicant is required to participate in parenting skills education or is already participating in an approved employment or education activity. The applicant shall receive an initial employability assessment designed to determine their level of employability, immediate needs, and family circumstances.

B. Job developers, through performance-based contracts, will provide job readiness services that shall include, but are not limited to:

1. workplace literacy assessment;
2. résumé development;
3. interview skills;
4. job search;
5. workplace standards and soft-skills development;
6. work ethics;
7. interest inventories related to job market and skills;
8. assistance with identification of available jobs and employers;
9. life skills development;
10. budget and financial management; and
11. client follow-up.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5723. Comprehensive Assessment

A. Once the applicant is certified for eligibility, a comprehensive assessment shall be conducted and include workplace literacy, basic skills and educational attainment, interests and aptitude related to employment, barriers to employment, need for education, supportive services such as child care and transportation, and other supportive services.

B. Specialized assessments can occur for issues that arise after an initial assessment has been completed and could

include substance abuse, domestic violence, mental health screening, or others as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5725. Family Success Agreement (FSA)

A. Upon determination of eligibility and after completion of the comprehensive assessment, work-eligible participants shall enter into a contractual agreement, known as the Family Success Agreement (FSA), with the department. The FSA will specify:

1. the client's time-bound goals, responsibilities, and work activity participation; and
2. the department's obligation to provide necessary supportive services, assessments, notifications, information, and case management.

B. The FSA shall be updated at least every six months or as the client's needs, goals, barriers, and family circumstances change.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5727. Family Transition Assessment

A. The department shall complete a Family Transition Assessment (FTA) to assist participants with their transition from cash assistance. The plan will be completed with participants who:

1. have received three of the six months of earned income disregard; or
2. have received 18 months of FITAP assistance; or
3. when it is determined that the family is leaving FITAP, whichever occurs first.

B. The FTA shall include but is not limited to:

1. a plan for on-going success in the work force;
2. identification of short and long-term goals;
3. identification of potential barriers and an action plan to overcome these barriers; and
4. information regarding eligibility for supportive services, including but not limited to Medicaid benefits, Food Stamp benefits, Child Care, transportation, Louisiana Child Health Insurance Program, the earned income tax credit, and TANF-funded services.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

§5729. Support Services

A.1. Clients may be provided support services that include but are not limited to:

- a. a full range of case maintenance and case management services designed to lead to self-sufficiency;
- b. transportation assistance;
- c. Food Stamp benefits;
- d. Medicaid benefits;
- e. Child Care;
- f. TANF-funded services;
- g. other services necessary to accept or maintain employment; and
- h. transitional benefits (post-FITAP support services).

2. These services may be provided to participants who are or become ineligible for cash assistance due to earned income. They include a transportation payment of \$120 per month and other supportive service payments not to exceed a combined total of \$200 per state fiscal year and used to cover certain costs deemed necessary for employment. The payments may begin with the first month of FITAP ineligibility and continue through the twelfth month of ineligibility or through the last month of employment, whichever comes first. The twelve months need not be consecutive.

B. Support services may be provided to:

1. persons participating in the Family Assessment;
2. persons referred by the Agency to other activities, such as drug counseling, prior to their participation in a work activity;
3. FITAP recipients participating in approved activities necessary to meet exemptions to the FITAP time limits.;
4. FITAP recipients to facilitate their attendance in the FITAP Drug Testing Program or Parenting Skills Program;
5. allow participation in educational activities for FITAP recipients who are exempt from STEP.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:

Gwendolyn P. Hamilton
Secretary

0310#010

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2003 King Mackerel Season Closure

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department, by the commission in its resolution of January 9, 2003, to close the 2003 commercial king mackerel season in Louisiana state waters when he is informed that the designated portion of the commercial king mackerel quota for the Gulf of Mexico has been filled, or was projected to be filled, the secretary hereby declares:

That Declaration of Emergency signed by me on September 24, 2003 is hereby rescinded, annulled and avoided and in lieu thereof, the following Declaration of Emergency is issued.

Effective 12 p.m., October 4, 2003, the commercial fishery for king mackerel in Louisiana waters will close and remain closed through June 30, 2004. Nothing herein shall preclude the legal harvest of king mackerel by legally licensed recreational fishermen. Effective with this closure,

no person shall commercially harvest, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell king mackerel. Effective with closure, no person shall possess king mackerel in excess of a daily bag limit. The prohibition on sale/purchase of king mackerel during the closure does not apply to king mackerel that were harvested, landed ashore, and sold prior to the effective date of the closure and were held in cold storage by a dealer or processor provided appropriate records in accordance with R.S. 56:306.5 and 56:306.6 are properly maintained.

The secretary has been notified by National Marine Fisheries Service that the commercial king mackerel season in federal waters of the Gulf of Mexico closed at 12:00 noon September 24, 2003. Closing the season in state waters is necessary to provide effective Rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

James H. Jenkins, Jr.
Secretary

0310#008

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2003 Oyster Season

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S.49:967(D), and under the authority of R.S. 56:433(B)1 which provides that the Wildlife and Fisheries Commission may designate what parts or portions of the natural reefs may be fished for oysters, and it may suspend the fishing of oysters altogether from natural reefs not leased by it, when such reefs are threatened with depletion as determined by the department and a resolution adopted by the Wildlife and Fisheries Commission on August 6, 2003 which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action if necessary, to close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of shell in seed oyster loads, or if enforcement problems are encountered, the Secretary hereby declares:

The 2003 oyster season in the Sister (Caillou) Lake Public Oyster Seed Reservation will close on Friday, October 10, at one-half hour after sunset. Increases in fishing effort levels and harvest rates in comparison to recent years, recent spat set with a high probability of survival, recent declines in annual stock size, and evidence of unacceptable amounts of reef material onboard vessels harvesting seed oysters for bedding purposes is occurring within the area and this public oyster seed reservation is being closed to protect the oyster resource.

The oyster season in the primary public seed grounds east of the Mississippi River including that portion of Lake Borgne described in LAC 76:VII.513, the sacking only area of the public grounds which is generally Lake Fortuna and Lake Machias to a line from Mozambique Point to Point Gardner to Grace Point at the Mississippi River Gulf Outlet,

the Bay Gardene and Hackberry Bay Public Oyster Seed Reservations, the Little Lake Temporary Natural Reef and the Calcasieu Lake public tonging area will remain open.

James H. Jenkins Jr.
Secretary

0310#041

DECLARATION OF EMERGENCY

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

Camp Minden Handicapped Deer Hunt

In accordance with the emergency provision of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:115, the Secretary of the Department

of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopt the following Emergency Rule.

A Declaration of Emergency is necessary to set a physically challenged deer hunt at Camp Minden on October 11-12. Due to an oversight by the organizing committee of Wheeling Sportsmen, the physically challenged hunt at Camp Minden was erroneously scheduled for October 11-12 instead of October 4-5 which are the dates set by the Commission in July for the statewide physically challenged deer hunt. Organizers did not realize their mistake until it was too late to notify all of the 37 physically challenged hunters who are to participate in this annual event. Adoption of this Rule will allow the hunt to proceed.

Terry D. Denmon
Chairman

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