

# Emergency Rules

## DECLARATION OF EMERGENCY

Department of Environmental Quality  
Office of the Secretary  
Legal Affairs Division

Expedited Penalty Agreement—Solid Waste  
(LAC 33:I.807, VII.115 and 315)(MM004E1)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allow the Department of Environmental Quality to use emergency procedures to establish rules, and of R.S. 30:2011, which allows the department to establish standards, guidelines, and criteria, to promulgate rules and regulations, and to issue compliance schedules, the secretary of the department hereby declares that an emergency action is necessary in order to implement expedited penalty agreements.

This is a renewal and revision of Emergency Rule MM0004, which was effective on March 20, 2007, and published in the *Louisiana Register* on April 20, 2007. Revisions include clarifications to a Solid Waste violation and changes in LAC 33:VII.115 and 315 to reflect amendments made in final Rule SW037, which was promulgated on June 20, 2007.

The Expedited Penalty Agreement Rule, OS054, became final on December 20, 2006. This Emergency Rule supplements that Rule by adding certain additional violations of the solid waste regulations to LAC 33:I.807, and amends LAC 33:VII.115 and 315 accordingly. The Emergency Rule will abate delays that have occurred in correcting violations of the Environmental Quality Act concerning the unauthorized transporting, disposal, and/or burning of solid wastes. Delays in enforcement reduce the effectiveness of the enforcement action and unnecessarily utilize resources. In the recent past, complaints of unauthorized disposal and burning of solid wastes have increased considerably, especially in the hurricane-impacted areas. This Emergency Rule will provide an alternative penalty assessment mechanism that the department may utilize, at its discretion, to expedite penalty agreements in appropriate cases, reducing staff time and increasing efficiency in addressing such violations. The report to the Governor by the Advisory Task Force on Funding and Efficiency of the Louisiana Department of Environmental Quality has approved an expedited penalty approach. It recommended a pilot program for addressing certain classes of violations with penalties in a timelier manner. The legislature approved that report and passed Act 1196 in the 2003 Regular Session allowing the department to promulgate rules for the program. A pilot program was created and monitored for approximately two years. Positive feedback on the program led the department to promulgate the permanent expedited penalty agreement Rule that became final on December 20, 2006.

This Emergency Rule is effective on July 18, 2007, and shall remain in effect for a maximum of 120 days or until a

final Rule is promulgated, whichever occurs first. For more information concerning MM004E1 you may contact the Regulation Development Section at (225) 219-3550.

This Emergency Rule is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx), and is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

### Title 33

## ENVIRONMENTAL QUALITY

### Part I. Office of the Secretary

#### Subpart 1. Departmental Administrative Procedures

#### Chapter 8. Expedited Penalty Agreement

#### §807. Types of Violations and Expedited Penalty

##### Amounts

A. The types of violations listed in the following table may qualify for coverage under this Chapter; however, any violation listed below, which is identified in an expedited penalty agreement, must also meet the conditions set forth in LAC 33:I.805.E.

Expedited Penalties			
Violation	Citation	Amount	Frequency
<b>All Media</b>			
*** [See Prior Text]			
<b>Solid Waste</b>			
Unauthorized on-site disposal of regulated solid waste generated at the site by the owner, lessee, or other person having an actual right, title, or interest in the property.	LAC 33:VII.315.C	\$250	Per occurrence
Unauthorized disposal of solid waste by the generator at an off-site location not permitted to receive such waste.	LAC 33:VII.315.C	\$250	Per occurrence
Operation of an unauthorized disposal site where solid waste is disposed.	LAC 33:VII.315.C	\$1000	Per occurrence
An owner, lessee, or other person having an actual right, title, or interest in the property of an unauthorized disposal site in which solid waste is disposed.	LAC 33:VII.315.C	\$1000	Per occurrence
Failure to report any discharge, deposit, injection, spill, dumping, leaking, or placing of solid waste into or on the water, air, or land.	LAC 33:VII.315.F	\$500	Per occurrence
Open burning of solid waste as prohibited by regulation.	LAC 33:VII.315.M	\$250	Per occurrence
Offering residential solid waste to an unauthorized transporter and/or facility not permitted to receive such waste.	LAC 33:VII.315.O	\$250	Per occurrence

Expedited Penalties			
Violation	Citation	Amount	Frequency
Offering commercial solid waste and/or construction and demolition debris to an unauthorized transporter and/or a facility not permitted to receive such waste.	LAC 33:VII.315.O	\$500	Per occurrence
Offering industrial solid waste to an unauthorized transporter and/or a facility not permitted to receive such waste.	LAC 33:VII.315.O	\$750	Per occurrence
Transportation of solid waste to processing or disposal facilities not permitted to receive such waste.	LAC 33:VII.505.D	\$1,000	Per occurrence
Waste Tires			
*** [See Prior Text]			

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2025(D).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:2243 (December 2006), amended LR 33:

#### Part VII. Solid Waste

##### Subpart 1. Solid Waste Regulations

#### Chapter 1. General Provisions and Definitions

##### §115. Definitions

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

\* \* \*

*Transport*—to move solid waste off-site to a non-processing transfer station or collection, processing, or disposal facility.

*Transporter*—any person who moves solid waste off-site to a non-processing transfer station or collection, processing, or disposal facility, excluding individuals who transport their own residential waste to a collection facility, transfer station, or permitted solid waste landfill.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514, 2609 (November 2000), amended by the Office of Environmental Assessment, LR 31:1576 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007), LR 33:

#### Chapter 3. Scope and Mandatory Provisions of the Program

##### §315. Mandatory Provisions

A. - N.2. ...

O. Generators shall not offer solid waste to transporters, processing facilities, or disposal facilities that have not received authorization and/or the required permits necessary to receive and/or manage the generator's solid waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid

Waste Division, LR 19:187 (February 1993), amended LR 19:1143 (September 1993), LR 19:1315 (October 1993), repromulgated LR 19:1421 (November 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:954 (August 1997), LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2516 (November 2000), LR 30:1675 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005), LR 33:1030 (June 2007), LR 33:

Mike D. McDaniel, Ph.D.  
Secretary

0707#016

#### DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodologies  
Non-Rural Community Hospitals  
(LAC 50:V.308)

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 an Emergency Rule to repeal and replace all Rules governing disproportionate share hospital payment methodologies (*Louisiana Register*, Volume 31, Number 6). In compliance with Act 182 and Act 323 of the 2005 Regular Session, the June 20, 2005 Emergency Rule was amended to establish provisions for provider fees levied on hospitals as a result of the Healthcare Affordability Act (*Louisiana Register*, Volume 31, Number 7) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 31, Number 9). The June 20, 2005 Rule was subsequently amended to incorporate the provisions of the July 1, 2005 and September 1, 2005 Emergency Rules (*Louisiana Register*, Volume 31, Number 10).

The October 25, 2005 Emergency Rule was amended to: 1) change the provisions governing DSH payments to other uninsured hospitals; 2) establish provisions governing payments to private community hospitals for services rendered to displaced, uninsured citizens from mandatory evacuation parishes affected by Hurricanes Katrina and Rita; 3) change the provisions governing DSH payments to high uninsured hospitals and to establish provisions governing payments to public community hospitals (*Louisiana Register*, Volume 32, Number 7); and 4) revise the provisions governing disproportionate share hospital payments to non-rural community hospitals as a result of the allocation of additional funds by the Legislature during the 2006 Regular Session (*Louisiana Register*, Volume 32, Number 9). The department subsequently amended the

October 25, 2005 Emergency Rule to incorporate the provisions of the June 28, 2006 and September 15, 2006 Emergency Rules (*Louisiana Register*, Volume 32, Number 10) and to revise the definition of a small rural hospital (*Louisiana Register*, Volume 33, Number 1). The department amended the October 23, 2006 Emergency Rule to incorporate the provisions of the December 18, 2006 Emergency Rule (*Louisiana Register*, Volume 33, Number 2).

Act 6 of the 2007 Regular Session of the Louisiana Legislature directed the department to revise the DSH qualifications and reimbursement methodologies for the state fiscal year 2007 payment to non-rural community hospitals. In compliance with Act 6, the department now proposes to amend the February 21, 2007 Emergency Rule to revise the provisions governing DSH payments to non-rural community hospitals for state fiscal year 2007.

This action is being taken to promote the public health and welfare and to assure that hospitals are adequately compensated for their uncompensated care. It is estimated that implementation of this proposed Emergency Rule will have no fiscal impact for state fiscal year 2006-2007.

Effective June 27, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:V.308 to revise the provisions governing disproportionate share hospital payments to non-rural community hospitals for state fiscal year 2007.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

## **Part V. Medical Assistance Program—Hospital Services**

### **Subpart 1. Inpatient Hospitals**

## **Chapter 3. Disproportionate Share Hospital Payment Methodologies**

### **§308. Non-Rural Community Hospitals—SFY 2007**

#### **A. Definitions**

*Non-Rural Community Hospital*—a non-state hospital that does not receive disproportionate share payments under any other qualification category. These hospitals may be either publicly or privately owned. In addition, psychiatric, rehabilitation and long term hospitals may qualify for this category.

B. DSH payments to a public, non-rural community hospital shall be calculated as follows.

1. Each qualifying public, non-rural community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department no later than October 1st of each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital shall be in accordance with the qualifying criteria and payment methodology for non-rural community hospitals included in Act 17 and may be more or less than the federal share so claimed. Qualifying public, non-rural community hospitals that fail to make such certifications by October 1 may not receive Title XIX claim payments or any disproportionate share payments until the department receives the required certifications.

C. Private, non-rural community hospitals located in the New Orleans and Lake Charles Metropolitan Statistical Areas (MSA) shall be reimbursed 85 percent of their qualifying uninsured costs.

1. These hospitals shall submit their most current year end financial statements to the department. Those hospitals that fail to provide such statements shall receive no payments and any payment previously made shall be refunded.

2. Repealed.

3. Repealed.

4. Repealed.

D. Private, non-rural community hospitals located in all other parts of the state shall be reimbursed 85 percent of their qualifying uninsured costs that are in excess of 3.5 percent of their total costs. If a hospital's qualifying uninsured cost is less than or equal to 3.5 percent of total hospital costs, no payment shall be made.

1. Qualifying uninsured cost as used for this distribution shall mean the hospital's total charges for care provided to uninsured patients multiplied by the hospital's appropriate cost-to-charge ratio for the applicable cost report period.

2. Repealed.

3. Repealed.

4. Repealed.

E. The department shall determine each qualifying hospital's uninsured percentage on a hospital-wide basis utilizing charges for dates of service from January 1, 2006 through June 30, 2006.

F. Hospitals shall submit supporting patient specific data in a format specified by the department. The deadline for submission of data used to determine qualification and the initial payment is October 31, 2006. The second payment to hospitals will be based on patient specific data for dates of service from July 1, 2006 through December 31, 2006. The deadline for submission of data used to calculate final payment is by March 31, 2007. Qualification for both payments is determined from the patient specific data for dates of services from January 1, 2006 through June 30, 2006.

1. Hospitals that were non-operational due to Hurricane Katrina and became operational between July 1, 2006 through December 31, 2006, the patient specific data during July 1, 2006 through December 31, 2006 will be used for qualification purposes.

2. Submitted hospital charge data must agree with the hospital's monthly revenue and usage reports which reconcile to the monthly and annual financial statements. The submitted data shall be subject to verification by the department before DSH payments are made.

G. In the event that the total payments calculated for all recipient hospitals are anticipated to exceed the total amount appropriated, the department shall reduce payments on a pro rata basis in order to achieve a total cost that is not in excess of the amounts appropriated for this purpose. The \$120,000,000 appropriation for the non-rural community hospital pool shall be effective only for state fiscal year 2007 and distributions from the pool shall be considered nonrecurring.

H. DSH payments shall be made as bi-annual lump sum payments.

I. Payment shall be made in an amount not to exceed \$750,000 in matching funds, or its equivalent, and the corresponding federal financial participation to a qualifying acute care hospital that is classified as a major teaching hospital and is contractually affiliated with a university located within the state of Louisiana that is recognized by the Centers for Disease Control and Prevention and the Health Resource and Services Administration, Maternal and Child Health Bureau as maintaining a Comprehensive Hemophilia Center for the provision of extraordinary medical 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 33:

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 Jerry Phillips 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.

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0707#010

## **DECLARATION OF EMERGENCY**

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

#### **Home Health Services—Extended Nursing Services Reimbursement Increase (LAC 50:XIII.701)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:XIII.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted revised provisions governing extended and multiple daily nursing visits for recipients up to age 21 under the Home Health Program in LAC 50:XIII.305 (*Louisiana Register*, Volume 32, Number 3). This Emergency Rule is being promulgated to increase the rates paid for extended nursing services in the Home Health Program.

This action is being taken to promote the health and well-being of recipients by assuring continued access to services through assisting providers to recruit and retain sufficient nursing staff. In addition, the proposed Rule will

assure access to medically necessary services for Chisholm Class members and Early and Periodic Screening, Diagnosis and Treatment Program eligibles. It is estimated that implementation of this Emergency Rule will increase expenditures in the Home Health Program by approximately \$5,016,573 for state fiscal year 2007-2008.

Effective for dates of service on or after July 20, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions governing reimbursement rates paid to home health agencies for extended nursing services.

### **Title 50**

## **PUBLIC HEALTH—MEDICAL ASSISTANCE**

### **Part XIII. Home Health**

#### **Subpart 1. Home Health Services**

#### **Chapter 7. Reimbursement Methodology**

#### **§701. Nursing and Home Health Aide Services**

A. Effective for dates of service on or after July, 20, 2007, the reimbursement rates for extended nursing services are increased as follows:

1. nurse care in home performed by a registered nurse (RN) is increased to \$34 per hour;
2. nurse care in home performed by a licensed practical nurse (LPN) is increased to \$32 per hour;
3. multiple visits—nurse care in home performed by an RN is increased to \$17 per hour; and
4. multiple visits—nurse care in home performed by an LPN is increased to \$16 per hour.

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 33:

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

Interested persons may submit written comments to Jerry Phillips, 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.

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0707#048

## **DECLARATION OF EMERGENCY**

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

#### **Medicaid Eligibility—Disability Medicaid Program (LAC 50:III.2501)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing proposes to adopt LAC 50:III.2501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative

Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Section 1902(a)(10) of Title XIX of the Social Security Act and Section 435.210 of Title 42 of the Code of Federal Regulations (CFR) provides states with the option to cover individuals under their Medicaid State Plan who are aged, blind or have a disability, and who meet the income and resource requirements for Supplemental Security Income (SSI) cash assistance. These individuals are not currently included as an eligibility category under Louisiana's Medicaid State Plan and must be referred to the Social Security Administration for assistance. Their Medicaid eligibility is contingent upon a favorable decision for SSI cash assistance. Pursuant to Section 1902(a)(10) of Title XIX of the Social Security Act and 42 CFR 435.210, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions to include this optional coverage group under the Medicaid State Plan and provide Medicaid-only services in the Disability Medicaid Program (*Louisiana Register*, Volume 33, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 20, 2007 Emergency Rule. This action is being taken to avoid imminent peril to the health and safety of certain individuals who would have to wait for a Social Security Administration decision to receive Medicaid benefits in order to obtain necessary medical care.

Effective August 19, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts provisions to provide Medicaid-only coverage to aged, blind and disabled individuals through the Disability Medicaid Program.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part III. Eligibility**

#### **Subpart 3. Eligibility Groups and Factors**

### **Chapter 25. Eligibility Groups and Medicaid Programs**

#### **§2501. Disability Medicaid Program**

A. The Disability Medicaid Program provides Medicaid-only coverage to aged, blind and disabled individuals who meet income and resource requirements for Supplemental Security Income (SSI) cash assistance.

B. Individuals receiving services in the Disability Medicaid Program will be included as an optional coverage group under the Medicaid State Plan.

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 33:

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 Jerry Phillips, Department of Health and Hospitals, 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.

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0707#050

### **DECLARATION OF EMERGENCY**

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

Mental Health Rehabilitation Program  
Moratorium on Mental Health Rehabilitation Providers  
(LAC 50:XV.701)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.701 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 Procedures 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 a moratorium on the enrollment of mental health rehabilitation (MHR) providers to participate in the Medicaid Program (*Louisiana Register*, Volume 31, Number 3). The department now proposes to repeal the provisions of the March 20, 2005 Rule governing the moratorium on the enrollment of MHR providers. This action is being taken to avoid imminent peril to the public health, safety and welfare of Louisiana citizens who are not able to access necessary mental health services due to a critical shortage of MHR providers since Hurricanes Katrina and Rita. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$6,661,728 for state fiscal year 2007-2008.

Effective August 1, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the provisions governing the moratorium on the enrollment of MHR providers.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XV. Services for Special Populations**

#### **Subpart 1. Mental Health Rehabilitation**

### **Chapter 7. Provider Participation Requirements**

#### **Subchapter A. Certification and Enrollment**

#### **§701. Provider Enrollment Moratorium**

A. Repealed.

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 31:668 (March 2005), amended LR 32:2069 (November 2006), repealed LR 33:

Interested persons may submit written comments to Jerry Phillips, Department of Health and Hospitals, 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.

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0707#049

## DECLARATION OF EMERGENCY

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

#### Targeted Case Management Nurse Family Partnership Program (LAC 50:XV.11101-11103)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:XV.11101-11103 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 clarified the provisions governing the Nurse Family Partnership (NFP) Program by adopting all existing Rules in codified format in Title 50 of the *Louisiana Administrative Code (Louisiana Register, Volume 30, Number 5)*. The Nurse Family Partnership Program provides case management services to a targeted population group composed of first-time mothers in certain Department of Health and Hospitals (DHH) administrative regions. The bureau amended the May 20, 2004 Rule to expand the DHH administrative regions served and to amend the eligibility criteria and staffing qualifications (*Louisiana Register, Volume 31, Number 8*). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has provided clarification that eligibility for targeted case management services is not transferable between target groups. In compliance with the CMS directive, the bureau amended the August 20, 2005 Rule to clarify that the first-time mother continues to be the focus of the NFP Program after the birth of the child (*Louisiana Register, Volume 32, Number 7*). This Emergency Rule is being promulgated to continue the provisions of the July 20, 2006 Emergency Rule. This action is being taken to avoid federal sanctions.

Effective July 18, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the provisions of the August 20, 2005 Rule addressing the program description and recipient qualifications in the Nurse Family Partnership Program.

### Title 50

## PUBLIC HEALTH—MEDICAL ASSISTANCE

### Part XV. Services for Special Populations

#### Subpart 7. Targeted Case Management

### Chapter 111. Nurse Family Partnership Program

#### §11101. Introduction

A. Nurse Family Partnership (NFP) targeted case management is a prenatal program designed to improve the health and social functioning of Medicaid eligible first-time mothers and their babies.

B. ...

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 Community Supports and Services LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 33:

#### §11103. Recipient Qualifications

A. A Medicaid recipient must not be beyond the twenty-eighth week of pregnancy and must attest that she meets one of the following definitions of a first-time mother in order to receive NFP case management services. The recipient:

A.1. - B.3. ...

C. Nurse Family Partnership case management services to the mother may continue up to two years after the birth of the child.

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 Community Supports and Services LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 33:

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 Jerry Phillips, 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.

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0707#003

## DECLARATION OF EMERGENCY

**Department of Health and Hospitals  
Office of the Secretary  
Office for Citizens with Developmental Disabilities  
Division of Long Term Supports and Services**

Home and Community Based Services Waivers  
Termination of Services for Displaced Recipients  
(LAC 50:XXI.301)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services adopts LAC 50:XXI.301 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is being promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing eligibility for home and community-based services waivers (*Louisiana Register*, Volume 24, Number 3). The Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services adopted provisions governing the termination of services and limited retention of waiver opportunities for waiver recipients displaced by Hurricanes Katrina and Rita (*Louisiana Register*, Volume 32, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 20, 2006 Emergency Rule. This action is being taken to avoid federal sanctions for failure to comply with federal requirements to assure the health and welfare of recipients of home and community-based waiver services.

Effective August 17, 2007, the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services adopts the following provisions governing the eligibility for home and community-based waiver services.

### **Title 50**

## **PUBLIC HEALTH—MEDICAL ASSISTANCE**

### **Part XXI. Home and Community Based Services**

#### **Waivers**

#### **Subpart 1. General Provisions**

#### **Chapter 3. Eligibility**

#### **§301. Termination of Coverage for Displaced Recipients**

A. Effective July 1, 2006, waiver recipients who have been displaced by Hurricanes Katrina or Rita and are currently residing in other states will no longer be able to receive waiver services under the Louisiana Medicaid Program.

B. This termination of coverage is applicable to recipients receiving services in the following home and community-based waivers:

1. the New Opportunities Waiver;
2. Children's Choice;

3. the Elderly and Disabled Adult Waiver; and
4. the Adult Day Health Care Waiver.

C. If the individual returns to live in Louisiana on or before June 2008, he/she must contact the department to report his/her address and to request that waiver services be restarted.

D. The individual's name will be placed on a preferred registry with other hurricane evacuees who have returned to live in Louisiana and requested that their waiver services be restarted.

E. Waiver opportunities shall be offered to individuals on the preferred registry on a first come, first served basis.

1. The first available waiver opportunity shall be offered to an individual on this registry based on the date that the request to restart services was received.

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, Office for Citizens with Developmental Disabilities and the Division of Long Term Supports and Services, LR 33:

Implementation of this Emergency Rule is contingent upon approval by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

Interested persons may submit written comments to Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117 or Hugh Eley, Division of Long Term Supports and Services, P.O. Box 3767, Baton Rouge, LA 70821-3767. They are 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.

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0707#051

## DECLARATION OF EMERGENCY

**Department of Social Services  
Office of Community Services**

Daycare Services (LAC 67:V.2301)

The Department of Social Services, Office of Community Services, has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:V.2301, Daycare Services, effective June 12, 2007. This Emergency Rule shall remain in effect for a period of 120 days or until the publication of the final Rule, whichever occurs first. This action is necessary to extend the original Emergency Rule of February 12, 2007, which will expire before the final Rule takes effect. The final Rule will be published in August, 2007.

Emergency action is necessary in this matter in order to provide an increase in the maximum reimbursement rates to Class A Day Care Centers to bring the Office of Community Services reimbursement rates for day care services to the department level for these services.

**Title 67**  
**SOCIAL SERVICES**  
**Part V. Office of Community services**  
**Subpart 4. Family Services**

**Chapter 23. Daycare**

**§2301. Daycare Services**

A. ...

B. Class A Day Care Centers will be reimbursed for day care services at the same reimbursement rate as the Office of Family Support Child Care Assistance Program. When a center's rate is less than the maximum amount reimbursed by the department, the department reimbursement rate will be the center's usual charge for day care services.

C. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 11:689 (July 1985), amended LR 18:868 (August 1992), LR 25:2443 (December 1999), LR 31:101 (January 2005), LR 33:

Ann S. Williamson  
Secretary

0707#002

**DECLARATION OF EMERGENCY**

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

TANF—Domestic Violence and Homeless Initiative  
(LAC 67:III.5509 and 5589)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of R.S. 49:953(B), the Administrative Procedure Act, to amend LAC 67:III.5509, Domestic Violence Services, and 5589, Homeless Initiative. These amendments are necessary to allow the agency to provide community collaboration training for the purpose of educating the community regarding domestic violence and the available services to victims of domestic violence provided by the agency and to clarify available services provided to the homeless. An Emergency Rule is needed for the agency to remain in compliance with federal regulations regarding Louisiana's Temporary Assistance to Needy Families (TANF) block grant. This Emergency Rule, effective, June 15, 2007, will remain in effect for a period of 120 days.

Section 5509, Domestic Violence Services, is being amended to clarify services provided to victims of domestic violence and their children. Section 5589 Homeless Initiative is being amended to clarify the definition of basic needs concerning homelessness.

The authorization for emergency actions in these matters is contained in Act 17 of the 2006 Regular Session of the Louisiana Legislature.

**Title 67**  
**SOCIAL SERVICES**

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

**Chapter 55. TANF Initiatives**

**§5509. Domestic Violence Services**

A. The Office of Family Support shall enter into Memoranda of Understanding or contracts to provide

services for victims of domestic violence and their children, including rural outreach and community collaboration training for the purpose of educating attendees about domestic violence and the available services provided by the Department of Social Services including but not limited to TANF, Food Stamps, Child Care, and Employment Training.

B. - D. ...

E. Direct services that provide for basic needs and are provided in response to an episode of need or a specific crisis situation and are non-recurrent, such as but not limited to food, clothing, and shelter assistance, will not be provided beyond four months.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 33:0000 (July 2007).

**§5589. Homeless Initiative**

A. Effective December 1, 2006, the Office of Family Support shall enter into contracts with public agencies, non-profit organizations, or for-profit organizations to end the cycle of homelessness in Louisiana by providing services to homeless families which include but are not limited to comprehensive case management, educational and employment opportunities for adult participants, community referrals, life skill modules, and housing options. Direct services that are provided in response to an episode of need or a specific crisis situation and are non-recurrent, such as but not limited to food, clothing, and shelter assistance, will not be provided beyond four months.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 17, 2006 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:674 (April 2007), amended LR 33:0000 (July 2007).

Ann S. Williamson  
Secretary

0707#004

**DECLARATION OF EMERGENCY**

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

TANF—Jobs for America's Graduates Louisiana  
(JAGS-LA) Program (LAC 67:III.5591)

The Department of Social Services, Office of Family Support, has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act to adopt LAC 67:III:5591, Jobs for America's Graduates Louisiana (JAGS-LA) Program as a new TANF initiative. This Emergency Rule effective July 1, 2007, will remain in effect for a period of 120 days.

Pursuant to House Bill 1 of the 2007 Regular Session of the Louisiana Legislature, the agency is adopting the JAGS-LA Program to keep in school those students at risk of failing in school, to capture out-of-school youth in need of a high school education, to provide an avenue for achieving academically, and to assist students in ultimately earning

recognized credentials that will make it possible for them to exit school and enter post-secondary education and/or the workforce.

The authorization for emergency action in this matter is contained in House Bill 1 of the 2007 Regular Session of the Louisiana Legislature.

**Title 67**

**SOCIAL SERVICES**

**Part III. Office of Family Support**

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

**Chapter 55. TANF Initiatives**

**§5591. Jobs for America's Graduates Louisiana (JAGS-LA) Program**

A. Effective July 1, 2007, the Office of Family Support shall enter into a Memorandum of Understanding with the Department of Education for the Jobs for America's Graduates Louisiana (JAGS-LA) Program.

B. These services meet the TANF goal to prevent and reduce the incidence of out of wedlock births by providing intervention and improved life prospects for students who show evidence of failing, dropping out or engaging in negative behaviors that can lead to dependency, out-of-wedlock births, imprisonment, etc.

C. Eligibility for services is not limited to needy families, however eligible participants in the JAG-LA Program shall be 15-21 years of age and must face at least two designated barriers to success that include economic, academic, personal, environmental, or work related barriers.

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

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq.; R.S. 46:231 and R.S. 36:474; House Bill 1, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:

Ann Silverberg Williamson  
Secretary

0707#019

**DECLARATION OF EMERGENCY**

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

**Shrimp Season Closure—Portion of Zone II**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 3, 2007 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2007 Spring Inshore Shrimp Season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or if enforcement problems develop, the Secretary hereby declares:

The 2007 spring inshore shrimp season within that portion of Shrimp Management Zone 2 extending from the Atchafalaya River Ship Channel at Eugene Island as delineated by the Channel red buoy line to the western shore of Vermilion Bay and Southwest Pass at Marsh Island will close on Monday, June 25 at one-half hour before official sunrise. The remaining portion of Zone 2 and all of Zones 1 and 3 will remain open until further notice.

The State Territorial Waters south of the Inside/Outside Shrimp Line, as described in R.S. 56:495 shall also remain open to shrimping.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within that portion of Zone 2 to be closed has rapidly increased in recent weeks and the region is being closed to protect these developing shrimp.

Bryant O. Hammett, Jr.  
Secretary

0707#008

**DECLARATION OF EMERGENCY**

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

**Shrimp Season Closure—Zone II and Portion of Zone III**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 3, 2007 which authorized the Secretary of the Department of Wildlife and Fisheries to close the 2007 Spring Inshore Shrimp Season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or if enforcement problems develop, the Secretary hereby declares:

The 2007 Spring Inshore Shrimp Season in that portion of Shrimp Management Zone 2 currently open to shrimping will close on Saturday, June 30, 2007 at 6:00 p.m. except for that portion of Zone 2 extending from a point originating along the Inside/Outside Shrimp Line as described in R.S. 56:495(A) at the western shore of Bayou Lafourche at Belle Pass at 29 degrees 05 minutes 10 seconds north latitude and 90 degrees 13 minutes 36 seconds west longitude eastward to the eastern shore of South Pass of the Mississippi River which will close on Friday, July 6, 2007 at 6:00 p.m. The 2007 Spring Inshore Shrimp Season in Shrimp Management Zone 3 will close on Saturday, June 30, 2007 at 6:00 p.m. except for that portion of Zone 3 which includes the Calcasieu Ship Channel originating at a line between Channel Markers 85 and 86 southward to a point originating along the Inside/Outside Shrimp Line at Calcasieu Pass as described in R.S. 56:495(A) and including East Pass from its origin at the Calcasieu Ship Channel to the south end of Calcasieu Lake and West Pass from its origin at the

Calcasieu Ship Channel to the south end of West Cove which will remain open until further notice. Zone 1 will remain open until further notice.

The State Territorial waters south of the Inside/Outside Shrimp Line, as described in R.S. 56:495, shall also remain open to shrimping.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within the regions to be closed has rapidly increased in recent weeks and these waters are being closed to protect these developing shrimp.

Bryant O. Hammett, Jr.  
Secretary

0707#014

### **RULE**

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

##### **Shrimp Season Closure—Remainder of Zone III**

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 3, 2007 which authorized the Secretary of the Department of

Wildlife and Fisheries to close the 2007 Spring Inshore Shrimp Season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or if enforcement problems develop, the secretary hereby declares:

The 2007 spring inshore shrimp season within the remainder of Shrimp Management Zone 3 currently open to shrimping which includes the Calcasieu Ship Channel originating at a line between Channel Markers 85 and 86 southward to a point originating along the inside/outside shrimp line at Calcasieu Pass as described in R.S. 56:495(A) and including East Pass from its origin at the Calcasieu Ship Channel to the south end of Calcasieu Lake and West Pass from its origin at the Calcasieu Ship Channel to the south end of West Cove will close on Saturday, July 7, at 6:00 p.m. Zone 1 will remain open until further notice.

The State Territorial waters south of the Inside/Outside Shrimp Line, as described in R.S. 56:495, shall also remain open to shrimping.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within that portion of the Calcasieu Ship Channel currently open to shrimping has rapidly increased in recent weeks and these waters are being closed to protect these developing shrimp.

Bryant O. Hammett, Jr.  
Secretary

0707#027