

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

ULV Malathion Applications (LAC 7:XXIII.145)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:3203, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached rules and regulations for the application of an ultra low volume insecticide to be applied to cotton fields infested with plant bugs.

The applications of insecticides in accordance with the current concentration regulations have not been sufficient to control plant bugs. Failure to allow the concentrations in ultra low volume (ULV) malathion applications will allow the plant bugs the opportunity to destroy the cotton during the growing season, effectively destroying the cotton crop. The destruction of the cotton crop or a substantial portion of the cotton crop will cause irreparable harm to the economy of northern Louisiana and to Louisiana agricultural producers thereby creating an imminent peril to the health and safety of Louisiana citizens.

This Emergency Rule becomes effective upon the signature of the commissioner, July 27, 2007, and shall remain in effect until 11:59 p.m. on August 21, 2007.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 1. Advisory Commission on Pesticides

§145. Fixed Wing Aircraft; Standards for Commercial Aerial Pesticide Applications

A - A.5.b.xxxvi ...

c. malathion insecticide applied with the following conditions to control plant bugs in cotton.

i. The commissioner hereby declares that prior to making any aerial application of ULV malathion to cotton, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs ("DPEP") in writing. Upon notification, LDAF shall inspect the aircraft prior to any ULV applications.

ii. Spray shall be applied, handled, and stored in accordance with all conditions specified by State or Federal regulations, including the strict observance of any buffer zones that may be implied.

iii. Aerial applicators shall strictly comply with any and all restrictions or mitigative factors, in regard to sensitive areas, including occupied buildings (churches, schools, hospitals, and homes), lakes, reservoirs, farm ponds, parks, and recreation areas that may be identified by Commissioner, and such restriction and mitigation are to be strictly complied with and observed by said aerial applicators.

iv. Aerial applicators will adjust flight patterns, to the degree possible, to avoid or minimize flying over

sensitive areas. This restriction does not apply to over flight between take-off and the commencement of spray operations, or over flight between termination of spray operations and landing.

v. Aerial applicators shall be alert to all conditions that could cause spray deposit outside field boundaries and use their good faith efforts, including adjustment or termination of operations, to avoid spray deposit outside field boundaries.

vi. Aerial spraying shall not be conducted when wind velocity exceeds 10 m.p.h.

vii. Aerial applicators will terminate application if rainfall is imminent.

viii. Insecticide spray will not be applied in fields where people or animals are present. It is the applicator's responsibility to determine if people are present prior to initiating treatment.

ix. Spraying shall not be conducted in fields where other aircraft are working.

x. All mixing, loading, and unloading will be in an area where an accidental spill can be contained and will not contaminate a stream or other body of water.

xi. All aerial applications of insecticide shall be at an altitude not to exceed 5 feet above the cotton canopy. However, in fields that are not near sensitive areas, if infield obstructions make the five-foot aerial application height not feasible, then the aerial height may be extended to such height above the cotton canopy as is necessary to clear the obstruction safely.

xii. The aircraft tank and dispersal system must be completely drained and cleaned before loading. All hoses shall be in good condition and shall be of a chemical resistant type.

xiii. Insecticide tank(s) shall be leak-proof and spray booms of corrosion resistant materials, such as stainless steel, aluminum, or fiberglass. Sealants will be tested before use.

xiv. The tank(s) in each aircraft shall be installed so the tank(s) will empty in flight. Sight gauges or other means shall be provided to determine the quantity contained in each tank before reloading.

xv. A drain valve shall be provided at the lowest point of the spray system to facilitate the complete draining of the tanks and system while the aircraft is parked so any unused insecticide can be recovered.

xvi. A pump that will provide the required flow rate at not less than 40 pounds per square inch (psi) during spraying operation to assure uniform flow and proper functioning of the nozzles. Gear, centrifugal or other rotary types, will be acceptable on aircraft with a working speed above 150 miles per hour.

xvii. ULV spraying systems with a pumping capacity that exceeds the discharge calibration rate shall have the bypass flow return to the tank bottom in a manner that prevents aeration and/or foaming of the spray formulation. Pumps utilizing hydraulic drive or other variable speed drives are not required to have this bypass,

provided the pump speed is set to provide only the required pressure and the system three-way valve is used for on/off control at full throw position. Any bypass normally used to circulate materials other than the ULV will be closed for ULV spraying.

xviii. Spray booms will be equipped with the quantity and type of spray nozzles specified by the Boll Weevil Eradication Program. The outermost nozzles (left and right sides) shall be equal distance from the aircraft centerline and the distance between the two must not exceed three-fourths of the overall wing span measurement. For helicopters, the outermost nozzles must not exceed three-fourths of the rotor span. For both fixed wing and helicopters, the program will accept the outermost nozzles between 60 percent and 75 percent of the wingspan/rotor span. Longer spray booms are acceptable provided modifications are made to prevent the entrapment of air in the portion beyond the outermost nozzle. Fixed wing aircraft not equipped with a drop type spray boom may require drop nozzles in the center section that will position the spray tips into smoother air to deliver the desired droplet size and prevent spray from contacting the tail wheel assembly and horizontal stabilizer. Most helicopters will be required to position the center nozzles behind the fuselage and dropped into smooth air in order to achieve the desired droplet size.

xix. Nozzles, diaphragms, gaskets, etc. will be inspected regularly and replaced when there is evidence of wear, swelling, or other distortion in order to assure optimum pesticide flow and droplet size. Increasing pressure to compensate for restricted flow is unacceptable. A positive on/off system that will prevent dribble from the nozzles is required.

xx. A positive emergency shut-off valve between the tank and the pump, as close to the tank as possible. This valve shall be controllable from the cockpit and supplemented by check valves and flight crew training which will minimize inadvertent loss of insecticide due to broken lines or other spray system malfunction.

xxi. Bleed lines in any point that may trap air on the pressure side of the spraying system.

xxii. An operational pressure gauge with a minimum operating range of 0 to 60 psi and a maximum of 0 to 100 psi visible to the pilot for monitoring boom pressure.

xxiii. A 50-mesh in-line screen between the pump and the boom and nozzle screens as specified by the nozzle manufacturer.

xxiv. Aircraft equipped so nozzle direction can be changed from 45 degrees down and back to straight back when it is necessary to change droplet size.

xxv. All nozzles not in use must be removed and the openings plugged.

xxvi. Nozzle tips for all insecticides shall be made of stainless steel.

xxvii. Aircraft shall have an operational Differentially Corrected Global Positioning System (DGPS) and flight data logging software that will log and display the date and time of the entire flight from take-off to landing and differentiate between spray-on and spray-off.

xxviii. Aircraft shall have a DGPS with software designed for parallel offset in increments equal to the assigned swath width of the application aircraft. Fixed towers, portable stations, satellite, Coast Guard, or other

acceptable methods may provide differential correction. However, the differential signal must cover the entire project area. In fringe areas from the generated signal, an approved repeater may be used. The system shall be sufficiently sensitive to provide immediate deviation indications and sufficiently accurate to keep the aircraft on the desired flight path with an error no greater than 3 feet. Systems that do not provide course deviation updates at one-second intervals or less will not be accepted.

xxix. A course deviation indicator (CDI) or a course deviation light bar (also CDI) must be installed on the aircraft and in a location that will allow the pilot to view the indicator with direct or peripheral vision without looking down. The CDI must be capable of pilot selected adjustments for course deviation indication with the first indication at 3 feet or less.

xxx. The DGPS must display to the pilot a warning when differential correction is lost, the current swath number, and cross-track error. The swath advance may be set manually or automatically. If automatic is selected, the pilot must be able to override the advance mode to allow respraying of single or multiple swaths.

xxxi. The DGPS must be equipped with a software for flight data logging that has a system memory capable of storing a minimum of 3 hours of continuous flight log data with the logging rate set at one second intervals. The DGPS shall automatically select and log spray on/off at one-second intervals while ferry and turnaround time can be two-second intervals. The full logging record will include position, time, date, altitude, speed in M.P.H., cross-track error, spray on/off, aircraft number, pilot, job name or number, and differential correction status. The flight data log software shall be compatible with DOS compatible PC computers, dot matrix, laser, or ink jet printers and plotters. The system must compensate for the lag in logging spray on/off. The system will display spray on/off at the field boundary without a sawtooth effect. Must be capable to end log files, rename, and start a new log in flight.

xxxii. The software must generate the map of the entire flight within a reasonable time. Systems that require five minutes or more to generate the map for a three-hour flight on a PC (minimum a 386 microprocessor with 4 MB of memory) will not be accepted. The flight path must clearly differentiate between spray on and off when viewed on the monitor or the printed hard copy. The software must be capable of replaying the entire flight in slow motion; stopping and restarting the replay at any point during the flight; zooming to any portion of the flight for viewing in greater detail and printing the entire flight or the zoomed-in portion. It must have a measure feature that will measure distance in feet between swaths or any portion of the screen and to be able to determine the exact latitude/longitude at any point on the monitor.

xxxiii. Flight information software provided by the applicator must have the capability to interface with MapInfo (version 3.0 or 4.0). The interface process must be "user friendly", as personnel will be responsible to operate the system in order to access the information.

xxxiv. Application of ULV malathion shall be at an application rate of 12 oz. per acre with no dilutions or tank mixes. Provided, however, that any Emulsifiable Concentrate (EC) formulation of pyrethroid insecticide labeled for Ultra

Low Volume (ULV) applications may be tank mixed, but only with Malathion ULV for plant bugs on cotton. Only one pryrethroid at a time may be mixed pursuant to this clause.

xxxv. Applications of ULV malathion shall be restricted to seven-day intervals.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 18:953 (September 1992), amended LR 21:927 (September 1995), amended LR 26:1964 (September 2000), LR 33:

Bob Odom
Commissioner

0707#020

DECLARATION OF EMERGENCY

Department of Economic Development Office of Business Development Louisiana Economic Development Corporation

Economic Development Award Program (EDAP)
and Economic Development Loan Program (EDLOP)
(LAC 13:III.131 and 133)

The Louisiana Department of Economic Development, Office of Economic Development, and the Louisiana Economic Development Corporation, pursuant to the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), are amending and supplementing portions of LAC 13:III., Chapter 1, relating to certain provisions of the rules of the Economic Development Award Program (EDAP), and particularly the Economic Development Loan Program (EDLOP), under the authority of R.S. 36:104, 36:108, 51:2302, 51:2312, and 51:2341. These Rules, adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., shall become effective August 17, 2007, and shall remain in effect for the maximum period allowed under the Act, or until the adoption of a permanent Rule, whichever occurs first.

The Department of Economic Development, Office of Economic Development, and the Louisiana Economic Development Corporation, have found an immediate need to amend and supplement certain provisions of the rules regarding the Economic Development Award Program (EDAP), and particularly the Economic Development Loan Program (EDLOP). The amendments to the EDLOP rules expand the Preamble and Purpose provided in Article 131 B, and the Definitions provided in Article 133 for the definition of the Project which will promote economic development in order to successfully secure the creation or retention of jobs by business entities newly locating in Louisiana or which may already exist in Louisiana and are expanding their operations, but require state assistance for such development as an incentive to influence a company's decision to locate in Louisiana, maintain or expand its Louisiana operations, and/or increase its capital investment in Louisiana, all of which will promote economic development in the state of Louisiana. None of the other provisions of these Rules are being amended by these revisions. Without this Emergency Rule the public welfare may be harmed as the result of the loss of business investment and economic development

projects creating or retaining jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

Chapter 1. Economic Development Award Program (EDAP) and Economic Development Loan Program (EDLOP)

Subpart A. General Rules

§131. Economic Development Loan Program (EDLOP); Preamble and Purpose

A.

B. The purpose of this program is to assist in the financing or loan funding of privately-owned property and improvements, including the purchase or leasing of a building site, the purchase or construction, renovation, rebuilding and improvement of buildings, their surrounding property, for machinery and equipment purchases and rebuilding, and for additional costs related to and incurred in connection with the relocation of the business enterprise, including appropriate professional and/or real estate fees and commissions, all for business enterprises newly locating in Louisiana or for businesses already existing in this State which are expanding their operations and that require state assistance for such development, rebuilding or other such improvement and/or relocation, and for which LED and LEDC assistance is requested under this program, all of which will promote economic development and provide an incentive to influence a company's decision to locate in Louisiana, maintain or expand its Louisiana operations, or increase its capital investment in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, 51:2302, 51:2312, and 51:2341.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 31:906 (April 2005), amended LR 33:

§133. Definitions

* * *

Project (or Infrastructure Project)—the undertaking for which a loan award is sought and/or is granted hereunder for the purchase of a to be privately-owned or a leased building site, or for the purchase, construction, improvement, expansion, renovation, rebuilding or expansion of privately-owned or leased buildings and their surrounding property, including parking facilities, private roads, railroad spurs and utility needs, including electrical, gas, telephone, water and sewerage lines, as well as certain qualified machinery and equipment, and for additional costs related to and incurred in connection with the relocation of the business enterprise, including appropriate professional and/or real estate fees and commissions, for a private entity which will promote economic development, for which LED and LEDC assistance is requested under this program as an incentive to influence a company's decision to locate in Louisiana, maintain or expand its Louisiana operations, and/or increase its capital investment in Louisiana.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, 51:2302, 51:2312, and 51:2341.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development,

Michael J. Olivier
Secretary

0708#068

DECLARATION OF EMERGENCY

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Scholarship/Grant Programs—Eligibility
(LAC 28:IV: 301, 703, 803)

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. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)].

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

This Declaration of Emergency is effective July 19, 2007, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG0888E)

**Title 28
EDUCATION**

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

Chapter 3. Definitions

§301. Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Louisiana Resident—

a. - g.iv. ...

h. For any dependent student graduating from an out-of-state high school during the 2006-2007 academic year (high school) whose parent or court-ordered custodian was a member of the United States armed forces who, in the year 2006, moved from Louisiana under permanent change of station orders and retired from the armed forces, and changed his military personnel records to reflect a change of his state of legal residence from Louisiana to another state, shall meet the requirements of this Item, provided that such parent or court-ordered custodian changes his military personnel records from the other state to reestablish Louisiana as his state of legal residence no later than July 1, 2007, and has filed a Louisiana state income tax return for the two years preceding the date of the dependent's graduation from high school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, 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 22:338 (May 1996), re promulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:

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

§703. Establishing Eligibility

A. - A.5.a.i.(d). ...

ii.(a). For students graduating in academic year (high school) 2007-2008 and prior, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	General Science, Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Mathematics I, Advanced Mathematics II
Chemistry	Chemistry Com
Fine Arts Survey	Speech Debate (2 units)
Western Civilization	European History
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	

(b). For students graduating in academic year (high school) 2006-2007 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III

Core Curriculum Course	Equivalent (Substitute) Course
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Mathematics I, Advanced Mathematics II
Chemistry	Chemistry Com
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	

A.5.a.iii. - 6.a.iii. ...

b. if qualifying under §703.A.5.c:

i. is a Louisiana resident, except as defined in Subparagraph h of the definition of Louisiana resident in §301:

(a). the state's reported prior year average plus 3 points, rounded, but never less than 23 for the Opportunity Award; or

(b). a 26 for the Performance Award; or

(c). a 30 for the Honors Award; and

ii. is a *Louisiana resident* as defined in Subparagraph h of the definition of *Louisiana resident* in §301:

(a). the state's reported prior year average plus 2 points, rounded, but never less than 22 for the Opportunity Award; or

(b). a 25 for the Performance Award; or

(c). a 29 for the Honors Award; and

c.i. if completed the 12th grade level of an approved home study program during or before the academic year (high school) 2003-2004 and qualifying under §703.A.5.d;

(a). the state's reported prior year average plus 3 points, rounded, but never less than 23 for the Opportunity Award; or

(b). a 26 for the Performance Award; or

(c). a 30 for the Honors Award; and

ii. if completed the 12th grade level of an approved home study program during or after academic year (high school) 2004-2005 and through academic year (high school) 2006-2007 and qualifying under §703.A.5.d;

(a). the state's reported prior year average plus 2 points, rounded, but never less than 22 for the Opportunity Award; or

(b). a 25 for the Performance Award; or

(c). a 29 for the Honors Award; and

iii. if completed the 12th grade level of an approved home study program during or after the academic year (high school) 2007-2008 and after, and qualifying under §703.A.5.d;

(a). the state's reported prior year average plus 2 points, rounded, but never less than 22 for the Opportunity Award; or

(b). a 24 for the Performance Award; or

(c). a 28 for the Honors Award; and

A.6.d.i. - 8. ...

B. Students qualifying:

1. under §703.A.5.a and b during or before academic year (high school) 2006-2007, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

a. a 2.50 for the Opportunity Award; or

b. a 3.50 for the Performance or Honors Awards;

2. under §703.A.5.a and b during or after academic year (high school) 2007-2008, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

a. a 2.50 for the Opportunity Award; or

b. a 3.00 for the Performance or Honors Awards;

3. under §703.A.5.f and graduating in academic year (high school) 2000-2001 through 2005-2006, must have attained a TOPS cumulative high school grade point average, based on a 4.00 maximum scale, of at least a 3.00 for the Performance Award.

C. - J.3.b.ii. ...

4. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, a displaced student who has been certified by the principal or headmaster to have graduated during the 2006-2007 school year from an out-of-state high school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 and receives a Louisiana Distance Diploma from the Board of Elementary and Secondary Education must meet all of the requirements of §703.A - I.8 above, except as follows:

a. A displaced student shall not be required to have for the respective awards a higher minimum composite score on the ACT or on the Scholastic Aptitude Test than required for a student who graduates from an eligible Louisiana high school provided such student has, for an opportunity award, a cumulative high school grade point average on all courses on the high school transcript of at least 2.50 calculated on a 4.00 scale or, for a performance or honors award, a cumulative high school grade point average on all courses on the high school transcript of at least 3.50 calculated on a 4.00 scale.

b. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during his entire 10th grade year of high school and was enrolled for such time in an eligible Louisiana high school; or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §703.J.2.a above for at least the 12 months prior to August 26, 2005, or in a parish listed in §703.J.2.b above for at least the 12 months prior to September 20, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, 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 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:

Chapter 8. TOPS-Tech Award

§803. Establishing Eligibility

A. – A.7.a. ...

b.i. if qualifying under §803.A.5.b or c and is a Louisiana resident, except as defined in Subparagraph h of the definition of *Louisiana Resident* in §301, an ACT composite of at least 20; or

ii. if qualifying under §803.A.5.b is a Louisiana Resident as defined in Subparagraph h of the definition of *Louisiana Resident* in §301, an ACT composite of at least 19; and

A.7.c. - B.3.b.ii. ...

4. To establish eligibility for a TOPS Tech Award, a displaced student who has been certified by the principal or headmaster to have graduated during the 2006-2007 school year from an out-of-state high school that meets the criteria of an eligible out-of-state high school as provided in §1701.A.4 and 5 and receives a Louisiana Distance Diploma from the Board of Elementary and Secondary Education must meet all of the requirements of §703.A.-I.8 above, except as follows.

a. A displaced student shall not be required to have for the respective awards a higher minimum composite score on the ACT or on the Scholastic Aptitude Test than required for a student who graduates from an eligible Louisiana high school provided such student has a cumulative high school grade point average on all courses on the high school transcript of at least 2.50 calculated on a 4.00 scale.

b. A displaced student shall be deemed to meet the Louisiana residency requirement if:

i. such dependent or independent student actually resided in Louisiana during his entire 10th grade year of high school and was enrolled for such time in an eligible Louisiana high school; or

ii. such dependent student has a parent or court-ordered custodian who actually resided in a parish listed in §703.J.2.a above for at least the 12 months prior to August 26, 2005, or in a parish listed in §703.J.2.b above for at least the 12 months prior to September 20, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, 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 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005), LR 33:437 (March 2007), LR 33:

George Badge Eldredge
General Counsel

0708#016

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—Dual Enrollment
(LAC 28:IV.Chapter 14)

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 repromulgate the Rules of the Scholarship/Grant Programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)].

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

This rulemaking will add Chapter 14 to LASFAC's Scholarship/Grants Rules to implement the Louisiana Dual Enrollment Program. The program will provide Louisiana public high school students with an incentive to prepare for college or for employment. The program allows high school students to dually enroll in postsecondary academic courses, enrichment/development courses, and work skills courses. The program will pay participating postsecondary institutions up to \$300 per course at \$100 per credit hour, for each student who meet the program requirements and participated in the program.

This Declaration of Emergency is effective July 19, 2007, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG0890E)

Title 28

EDUCATION

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

Chapter 14. Dual Enrollment Program

§1401. General Provisions

A. The Dual Enrollment Program is administered by the Louisiana Office of Student Financial Assistance (LOSFA) in accordance with a memorandum of understanding by and between the Louisiana Board of Regents and the Louisiana Student Financial Assistance Commission (LASFAC).

B. Description, History and Purpose. The Dual Enrollment Program is established to provide funding to Louisiana public postsecondary institutions that enroll eligible 11th and 12th grade Louisiana public high school students in college degree, developmental, or work skills courses. The purpose of the Dual Enrollment Program is to provide an incentive for qualified Louisiana public high school students to prepare for a postsecondary education or career.

C. **Effective Date.** Dual Enrollment Program payments shall be made beginning with the 2007-2008 award year to postsecondary institutions for 11th and 12th grade students meeting the eligibility criteria set forth in this Chapter.

D. **Eligible Semesters/Terms.** The Dual Enrollment Program will pay for enrollment in each college course during each semester or term of the academic year. Dual Enrollment Program will not pay for summer semesters or sessions.

E. **Award Amount.** The Dual Enrollment Program will pay postsecondary institutions \$100 per college credit hour, not to exceed \$300 per course, for each course in which the student is eligible to enroll.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:

§1403. Definitions

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Academic Year—the academic year begins with the fall semester or term of the award year, includes the winter term, if applicable, and concludes with the completion of the spring semester or term.

College Degree Course—a course in an academic subject at a Louisiana postsecondary institution that generates postsecondary institutional credit and appears on the current Board of Regents' Statewide General Education Course Articulation Matrix.

Enrichment/Developmental Course—an English or mathematics course at a Louisiana postsecondary institution that generates postsecondary institutional credit, but not degree credit, and is designed to prepare the student for college-level instruction.

Postsecondary Institution—Louisiana public colleges or universities.

Work Skills Course—a course at a Louisiana postsecondary institution in a skill or occupational training area that is designed to lead to an industry-based certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:

§1405. Establishing Eligibility

A. To establish eligibility for the Dual Enrollment Program, all student applicants must meet the following criteria:

1. be in the 11th or 12th grade in a Louisiana public high school;
2. be working towards and on track to complete the Regents/TOPS core curriculum by high school graduation;
3. have taken either the PLAN or ACT assessment and those scores are on file at the high school;
4. have completed and submitted a Dual Enrollment Program application to the high school in which the student is enrolled;

5. be approved by the high school in which the student is enrolled to participate in the program and to enroll in the course or courses; and

6. be enrolled in a course for which both high school and college credit is available and is for which a Dual Enrollment Program payment is made.

B. Enrollment in a College Degree Course. In addition to the eligibility criteria in Paragraphs A.1-6, a student must have a PLAN or ACT:

1. composite score of at least 17 to enroll in a college degree course;

2. English sub-score of at least 18 to enroll in an entry level English college degree course;

3. Mathematics sub-score of at least 18 to enroll in an entry level Mathematics college degree course.

C. Enrollment in an Enrichment/Developmental Course. In addition to the eligibility criteria in Paragraphs A.1-6, a student must have a PLAN or ACT:

1. composite score of at least 12 to enroll in an enrichment/developmental course;

2. English sub-score of at least 12 to enroll in an English enrichment/developmental course;

3. Mathematics sub-score of at least 12 to enroll in a mathematics enrichment/developmental course.

D. Enrollment in a Work Skills Course. In addition to the eligibility criteria in Paragraphs A.1-6, a student must have a PLAN or ACT Composite score of at least 12.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:

§1407. Continuing Enrollment

A. To continue enrollment in subsequent semesters/terms in the Dual Enrollment Program, the student must:

1. have successfully completed and earned credit in the last course(s) in which a student enrolled through the Dual Enrollment Program. If the student resigns or withdraws from a course, the student must receive permission from both the high school and college to continue enrollment in subsequent semesters/terms;
2. be in good standing at the postsecondary institution;
3. continue to meet eligibility requirements in §1405.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:

§1409. Responsibilities of High Schools and School Boards

A. The student's high school shall:

1. determine whether the student meets the initial eligibility criteria provided in §1405.A;
2. approve or disapprove the student's participation in the program;
3. approve the course or courses in which the student will enroll;
4. provide to the postsecondary institution at which the student will be dually enrolled:
 - a. the student's approved application; and

b. the student's PLAN and/or ACT test scores, including sub-scores on those tests required to enroll in specific courses as provided in §1405.B.-D.

B. By forwarding the student's application to the postsecondary institution, the student's high school certifies that it has determined that the student has met all criteria in §1405.A to participate in the Dual Enrollment Program and has approved the student's participation in the program and the course or courses in which the student will be enrolled.

C. Upon completion of the course, the high school shall include the high school course, units attempted, units earned, and course grade on the student's permanent high school transcript.

D. At the end of each semester or term of participation in the program, the student's high school shall determine whether the student has met the criterion in §1407.A.1 for continued enrollment in the Dual Enrollment Program. If the student is determined eligible and the high school approves the student's continued participation in the program, it shall so notify the postsecondary institution and provide the course or courses approved for enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:

§1413. Responsibilities of Louisiana Public Postsecondary Institutions

A. Each Louisiana public postsecondary institution that participates in the Dual Enrollment Program shall:

1. be responsible for determining that the student meets the PLAN or ACT eligibility criteria provided in §1405.B-D;

2. reserve Dual Enrollment Program funds when the student is accepted and enrolled in an appropriate course;

3. submit a payment request to LOSFA for students enrolled at the institution for whom a reservation was made as follows:

a. for each student eligible for the Dual Enrollment Program who is enrolled at the end of the 14th class day for semester schools, or the 9th class day for quarter and term schools;

b. Payment Request Amount. Each semester or term, the postsecondary institution in which a student is dually enrolled shall submit a payment request to LOSFA in the amount of \$100 per credit hour in which the student is enrolled, not to exceed \$300 for each college course;

c. the postsecondary institution may not charge the student any mandatory institutional and tuition fees for enrollment in a course paid for by the Dual Enrollment Program;

d. the payment request shall include the social security number, college code, high school code, term, date, college course type, hours attempted, and amount requested for each student;

4. for students who have been previously enrolled in the Dual Enrollment Program, determine whether the student is in good standing at that institution;

5. by submitting a payment request to LOSFA, the postsecondary institution certifies that:

a. the student meets the eligibility criteria provided in 1405.B-D for the college course in which the student is dually enrolled;

b. the student was enrolled at the end of the 14th class day for semester schools, or the 9th class day for quarter and term schools;

c. the student's high school has provided notice that the student is eligible for and has been approved to continue participation in the program; and

d. the student's high school has provided notice of the course or courses approved for enrollment;

e. the student is in good standing at the institution;

6. upon completion of the course, the postsecondary institution shall include the college course, credit attempted, credit earned, and course grade on the student's permanent postsecondary education transcript.

B. Records Retention

1. Records pertaining to the Dual Enrollment Program are subject to audit as required by LOSFA, LASFAC, the Louisiana Board of Regents, and the Louisiana Legislative Auditor. Postsecondary institutions shall maintain all records for a minimum of three years. All such records shall be made available upon request by LOSFA, LASFAC, the Louisiana Board of Regents and the Louisiana Legislative Auditor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:

§1415. Responsibilities of the Board of Regents

A. The Board of Regents shall provide a student application to participate in the Dual Enrollment Program.

B. The Board of Regents shall maintain a Statewide General Education Course Articulation Matrix.

C. In the event that the funds appropriated for the Dual Enrollment Program are insufficient to pay for all eligible students, the Board of Regents shall develop, approve and deliver a plan to LOSFA to address the shortfall.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:

§1417. Responsibilities of LOSFA

A. Upon receipt of payment requests from institutions submitted in accordance with §1413.A, LOSFA shall pay the institution for each eligible student in accordance with §1413.

B. LOSFA shall conduct audits of the participating Louisiana public postsecondary institutions to ensure compliance with program requirements.

C. LOSFA shall provide the information necessary to fully inform Louisiana public high school students and their parents on the requirements of and procedures for applying for and maintaining eligibility for the Dual Enrollment Program.

D. LOSFA shall audit high schools and postsecondary institutions to ensure compliance with these rules.

E. LOSFA shall maintain a database of all students who have participated in the Dual Enrollment Program, including social security number, college code, high school code, term, date, college course type, hours attempted, payment amount, and aggregate amount paid.

F.1. After the receipt of fall semester or term payment requests, but no later than October 15 of each year, LOSFA shall determine whether sufficient funds are available for all

anticipated program payments for subsequent semesters and terms of the academic year.

2. In the event projections indicate sufficient funds are not available, LOSFA shall notify the Board of Regents.

3. In the event additional funds are not allocated for all program payments anticipated for subsequent semesters and terms during the academic year, the Board of Regents shall develop, approve and deliver a plan to LOSFA to address the shortfall.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:

§1419. Responsibilities of LASFAC

A. LASFAC shall promulgate administrative rules in accordance with the Administrative Procedure Act, in consultation with the Louisiana Board of Regents and in accordance with a memorandum of understanding entered into by and between LASFAC and the Louisiana Board of Regents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:

George Badge Eldredge
General Counsel

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DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—Louisiana GO Grants
(LAC 28:IV.Chapter 12)

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. 17:3042.1.1-3042.8, R.S. 17:3048.1, R.S. 56:797.D(2)].

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

This rulemaking will add Chapter 12 to LASFAC's Scholarship/Grants Rules to implement the Louisiana GO Grant Program. The program will provide \$15 million in need-based aid to Louisiana students in state fiscal year 2007-2008. The program was reviewed and approved by both the Senate Committee on Education and the House Committee on Education on April 12, 2007, and \$15 million

has been included in the agency's budget for the 2007-2008 state fiscal year.

This Declaration of Emergency is effective July 19, 2007, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG0889E)

Title 28

EDUCATION

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

Chapter 12. Louisiana GO Grant

§1201. General Provisions

A. Authority

1. In accordance with the requirements of Act 695 of the 2004 Regular Session of the Legislature, the Board of Regents developed the GO Grant Program. The program was reviewed and approved by both the Senate Committee on Education and the House Committee on Education on April 12, 2007.

2. The Louisiana GO Grant Program is administered by the Louisiana Office of Student Financial Assistance in accordance with the approved program and a memorandum of understanding by and between the Louisiana Board of Regents and the Louisiana Student Financial Assistance Commission.

B. Description, History and Purpose. The Louisiana GO Grant assists those students who can demonstrate financial need to pay for the cost of postsecondary education. The GO Grant is used to pay a portion of the cost of attendance at an eligible Louisiana postsecondary institution.

C. Maximum Award Amount

1. The maximum annual award for any student is \$2,000 per academic year.

2. The annual award amount for students who enroll less than full time shall be reduced based on the maximum amount the postsecondary institution is authorized to submit a payment request in §1211.C.2.

3. The maximum total lifetime award amount for any student is \$10,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:

§1203. Definitions

A. The following definitions shall be applicable to the Louisiana GO Grant Program. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these Rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Academic Year—the academic year begins with the fall semester or term of the award year, includes the winter term, if applicable, and concludes with the completion of the spring semester or term of the award year. Summer terms may be included in the academic year if the post-secondary institution provides students with Pell grants or financial need grants during the summer session, in which case, the academic year culminates with the summer session.

Administering Agency—the Louisiana Student Financial Assistance Commission through the Louisiana Office of Student Financial Assistance or LOSFA.

Age—a student's age is calculated by subtracting his birth year from the academic begin year he begins college enrollment. For example, a student who is born in 1983 who enrolls in college during the fall semester of 2007 or the spring semester of 2008 is 24.

Cost of Attendance—the total cost for a student to attend a particular postsecondary institution, usually expressed as an academic year figure. This cost shall be determined by the postsecondary institution attended in compliance with Title IV of the Higher Education Act of 1965, as amended, and shall be annually updated and adopted by the institution.

Credit-bearing Course—a course in which postsecondary education credit is attempted.

Dependent Student—a student who does not qualify as an independent student and is deemed to be dependent on his parents for support and therefore is required to include parental information on the Free Application for Federal Student Aid (FAFSA) or renewal FAFSA.

Education Allowance—\$2,000 per academic year.

Education Cost Gap (ECG)—

a. for postsecondary institutions, except a Louisiana public college that has been granted regional candidacy status and is eligible to participate in the Go Grant Program, the Louisiana Basic College Costs (LBCC) minus the federal Pell grant amount for a full time student;

b. for a Louisiana public college that has been granted regional candidacy status and is eligible to participate in the Go Grant Program, the Louisiana Basic College Costs (LBCC) minus the financial need grant amount at that institution for a full time student.

Enrollment—registration in programs of study for which a student may receive a Pell Grant or a financial need grant at a postsecondary institution.

Federal Pell Grant—the Pell Grant provided under Title IV of the Higher Education Act of 1965, as amended.

Financial Need Grant—an institutional grant provided by the state for students with financial need as evidenced by the data reported on the FAFSA at a Louisiana public college that has been granted regional candidacy status and is eligible to participate in the Go Grant Program.

First-Time Freshman—a student who, after high school graduation, has never attended any college or other postsecondary institution, including students enrolled in the fall term who attended college for the first time in the prior summer term after high school graduation and students who entered with advanced standing (college credits earned before graduation from high school).

Full-Time—a student enrolled in a postsecondary institution who is considered program full time by the school, or is enrolled in at least 12 semester credit hours, or 8 hours at a term school.

GO Grant Award Amount—the award amount actually paid during an academic year.

Half-Time—a student enrolled in a postsecondary institution who is not full time but is enrolled in at least 6 semester credit hours, or 4 hours at a term school.

Independent Student—a student who meets at least one of the criteria listed in Subparagraphs a-f or has been determined independent by a financial aid officer exercising professional judgment in accordance with applicable provisions of the Higher Education Act of 1965, as amended:

a. reached 24 years of age prior to January of the year preceding the academic year for which the student is applying for aid;

b. is currently serving on active duty for purposes other than training or is a veteran of the U.S. Armed Forces, including a student who was activated to serve in Operation Desert Storm;

c. is an orphan or a ward of the court or was a ward of the court until age 18;

d. has legal dependents other than a spouse;

e. is a graduate or professional student;

f. is married.

Less Than Half-Time—a student enrolled in a postsecondary institution who is not full time and is enrolled in less than 6 semester credit hours or 4 hours at a term school.

Louisiana Basic College Costs (LBCC)—

a. for students enrolled at Louisiana public postsecondary institutions, the tuition and mandatory fees that are assessed a full time student for enrollment during the academic year at that institution, not including summer semesters or sessions, as approved on a yearly basis by the Louisiana Board of Regents, plus the education allowance;

b. for students enrolled at regionally accredited independent colleges or universities in the state that are members of the Louisiana Association of Independent Colleges and Universities, the average tuition and mandatory fees for full time students at the four year public postsecondary institutions, plus the education allowance.

Louisiana Resident—

a. A dependent or independent student whose true, fixed, and permanent home of residence is Louisiana as reported on the Free Application for Federal Student Aid (FAFSA).

b. A dependent student whose non-custodial parent completes a residency affidavit in Subparagraph e below that establishes Louisiana residency.

c. A dependent student whose parent is transferred out of Louisiana temporarily by his/her employer and that parent completes a residency affidavit in Subparagraph e below that establishes Louisiana residency.

d. A dependent student whose parent is on active duty in the Armed Forces and who is stationed in Louisiana under permanent change of station orders, or an independent student who is on active duty military status in the Armed Forces and is stationed in Louisiana under permanent change of station orders.

e. If the dependent or independent student does not report Louisiana as his true, fixed, and permanent home of residence as Louisiana on the FAFSA, the administering agency may require an independent student applicant or the parent of a dependent student applicant to show proof of residency. Residency may be established by completion of a standard affidavit developed by the administering agency. Such affidavits must be completed in their entirety by the independent student applicant or by at least one parent of the dependent student applicant and be sworn to and notarized by a licensed notary public. Further, the affiant shall be required to submit records in support of the affidavit to include the following records and such other records as may be required by the administering agency:

- i. if registered to vote, a Louisiana voter registration card; and
- ii. if licensed to drive a motor vehicle, a Louisiana driver's license; and
- iii. if owning a motor vehicle located in Louisiana, a Louisiana registration for that vehicle; and
- iv. if earning a reportable income, a Louisiana tax return.

Over Award—an over award occurs when a student receives financial aid in excess of the cost of attendance or an award under state programs to which the student was not entitled.

Postsecondary Institution—Louisiana public colleges or universities and regionally accredited independent colleges or universities in the state that are members of the Louisiana Association of Independent Colleges and Universities and a Louisiana public college that has been granted regional candidacy status, but is not yet eligible to participate in Title IV programs, may award students a Go Grant. Candidacy status institutions must require students to complete a FAFSA and the institution must determine a student's eligibility in accordance with rules under this Chapter.

Program Full-Time—a student is enrolled in a degree program at a postsecondary institution that the institution defines full-time as less than 12 hours per semester or eight hours per term.

Satisfactory Academic Progress—a standard established in accordance with the Higher Education Act of 1965, as amended, by the institution at which a GO Grant recipient is enrolled for measuring a student's progress in his or her educational program.

Undergraduate Program—a program of study that is designed to lead to a certificate or undergraduate degree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:

§1205. Application and Initial Eligibility

A. Application. A student must complete the Free Application for Federal Student Aid for the year during which he intends to enroll in college.

B. Initial Eligibility. In order to be eligible for a Louisiana GO Grant, a student must:

- 1. be a Louisiana resident; and
- 2. receive a federal Pell grant or a financial need grant; and
- 3. have an Education Cost Gap (ECG) greater than \$0; and
- 4.a. be a student who entered college as a first time freshman during academic year 2007-2008 or later; or
 - b. be a student who is age 24 or younger who entered college as a first time freshman during academic year 2007-2008 or later; or
 - c. be a student who is age 25 or older and who has had a break in enrollment of at least two consecutive semesters, not including a summer semester or term, immediately preceding the period of enrollment for which the student is being considered for receipt of a grant under this Chapter;
- 5. not have a criminal conviction, except for misdemeanor traffic violations.

C. In order to receive a grant under this Chapter, an eligible student must be enrolled in an undergraduate program at a postsecondary institution through the 14th class day (9th class day at quarter and term schools).

§1207. Continuing Eligibility

A. Application. A student must complete the Free Application for Federal Student Aid or the Renewal Application for each year he enrolls in college to be considered for a Pell grant and the Go Grant.

B. A student's eligibility will be reevaluated on the same schedule as eligibility for a federal Pell grant or a financial need grant is determined at the institution, but at least once annually.

1. The student must continue to receive the federal Pell grant or a financial need grant.

2. The student must still have an education cost gap greater than \$0 as determined using the ECG formula.

3. The student must have maintained satisfactory academic progress as defined by the institution in which he is enrolled in accordance with the Higher Education Act of 1965.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:

§1209. Eligibility of Postsecondary Institutions

A. Postsecondary Institutions Eligible to Participate

1. Postsecondary institutions that provide undergraduate programs.

2. Regionally accredited private colleges and universities that are members of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU). As of July 2007, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, New Orleans Baptist Theological Seminary, Our Lady of the Lake College, Our Lady of Holy Cross College, St. Joseph Seminary College, Tulane Medical Center, Tulane University and Xavier University.

B. Audits

1. Postsecondary institutions that participate in the Louisiana GO Grant program grant LOSFA and the Louisiana legislative auditor the right to inspect records and perform on-site audits of each institution's administration of the program for the purpose of determining the institution's compliance with state law and applicable rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:

§1211. Responsibilities of Postsecondary Institutions

A. Initial Eligibility

1.a. Postsecondary institutions must determine whether the student meets the criterion in Subparagraph a of the definition of Louisiana resident in §1203.

b. If this criterion is not met, the student may request that LOSFA make a determination of residency under Subparagraph e of the definition of Louisiana resident in §1203.

2. Postsecondary institutions must determine whether a student meets the initial eligibility criteria enumerated in §1205.B.2-4.

B. Continuing Eligibility

1. Postsecondary institutions must determine whether a student meets the continuing eligibility criteria enumerated in §1207 on the same schedule as eligibility for a Pell grant or a financial need grant is determined at the institution, but at least once annually.

C. Submission of Payment Requests. Each semester or term, postsecondary institutions shall submit a payment request to LOSFA for students enrolled at the institution who have been determined eligible for a Louisiana GO Grant as follows.

1. For each student eligible for a Louisiana GO Grant who is enrolled at the end of the 14th class day for semester schools, or the 9th class day for quarter and term schools, or for any qualifying summer sessions, at the end of the last day to drop and receive a full refund for the full summer session.

2. Payment Request Amount

a. \$1,000 per semester for a student enrolled full time after the 14th class day in a postsecondary institution that operates on a semester basis or \$667 (\$666 for the final term of the award year) per term for a student enrolled full time after the 9th class day in a postsecondary institution that operates on a term basis;

b. \$500 per semester for a student enrolled half time after the 14th class day in a postsecondary institution that operates on a semester basis or \$333 (\$334 for the final term) per term for a student enrolled half time after the 9th class day in a postsecondary institution that operates on a term basis;

c. \$250 per semester for a student enrolled less than half time after the 14th class day in a postsecondary institution that operates on a semester basis or \$167 (or \$166 for the final term) per term for a student enrolled half time after the 9th class day in a postsecondary institution that operates on a term basis.

d. For summer sessions, the difference between what the student was paid during the preceding fall semester or term, winter term, if applicable, and spring semester or term and the student's maximum annual award amount; provided the award for the summer session shall not exceed \$1,000.

3. The payment request shall include the social security number, college code, term, date, hours attempted, award amount, education cost gap and amount requested for each student.

4. For students who are enrolled in more than one postsecondary institution, the home school (school paying the Pell grant or a financial need grant) is responsible for submitting a payment request for the Go Grant based on the total hours enrolled at all institutions.

D. Over Payments

1. No institution shall submit a payment request for GO Grant funds which would result in a student receiving an annual total of more than is authorized in §1201.C.

2. Postsecondary Institutions certify by submitting a payment request for a GO Grant that the institution will reimburse LOSFA for any award funds that are disbursed to

ineligible students, in excess of the maximum annual award or in excess of the maximum lifetime award.

E. Over Award

1. In the event the student's total aid, including vocational rehabilitation awards, exceeds the cost of attendance, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the Louisiana GO Grant, then a TOPS Award, if applicable, shall be reduced by the amount of any remaining over award.

F. Records Retention.

1. Records pertaining to the payment requests for Louisiana GO Grants are subject to audit as required by LASFAC, the Louisiana Board of Regents, and the Louisiana Legislative Auditor. Postsecondary institutions shall maintain all records for a minimum of three years from creation. All such records shall be made available upon request by LASFAC, the Louisiana Board of Regents and/or the Louisiana Legislative Auditor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:

§1213. Responsibilities of LOSFA

A. LOSFA shall pay each postsecondary institution an amount equal to that amount in a payment request by the postsecondary institution in accordance with the provisions of §1211.C.

B. LOSFA shall determine the residency of students who do not meet the criteria enumerated in Subparagraph a of the definition of *Louisiana resident* in §1203 and notify postsecondary institutions of its determination(s).

C. LOSFA shall maintain a database of all students who have received the GO Grant, including social security number, college code, term, date, hours attempted, award amount, education cost gap amount, annual amount received, and aggregate amount received. In the event LOSFA receives a payment request for a student in an amount that would exceed the student's eligibility, LOSFA will pay only that amount that will not exceed the student's eligibility.

D. Adequacy of Funding

1. After the receipt of fall semester or term payment requests, but no later than October 15 of each year, LOSFA shall determine whether sufficient funds are available to pay all anticipated awards for subsequent semesters, terms and sessions of the academic year.

2. In the event projections indicate sufficient funds are not available, LOSFA shall notify the Board of Regents.

3. In the event additional funds are not allocated for payment of all anticipated awards for subsequent semesters, terms and sessions during the academic year, the Board of Regents shall develop, approve and deliver a plan to LOSFA to address the shortfall.

E. LOSFA shall audit postsecondary institutions to ensure compliance with these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:

§1215. Responsibilities of LASFAC

A. LASFAC shall promulgate administrative rules in accordance with the Administrative Procedure Act, in consultation with the Louisiana Board of Regents and in accordance with a memorandum of understanding entered into by and between LASFAC and the Louisiana Board of Regents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3023 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 33:

George Badge Eldredge
General Counsel

0708#013

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of Aging and Adult Services**

Home and Community Based Services Waivers
Adult Day Health Care
(LAC 50:XXI.Chapters 21, 23, and 27)

The Department of Health and Hospitals, Office of Aging and Adult Services proposes to amend LAC 50:XXI.2101, 2103, 2107, 2109, 2313 and Chapter 27, and to adopt §2317 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 repromulgated the provisions governing home and community-based waiver services for adult day health care (*Louisiana Register*, Volume 30, Number 9). The Department of Health and Hospitals, Office of Aging and Adult Services subsequently amended the September 20, 2004 Rule to: 1) clarify procedures for the allocation of ADHC waiver opportunities; 2) amend the provisions governing the medical certification process to remove preadmission screening and annual resident review requirements; and 3) eliminate the use of the Title XIX Medical-Social Information Form (Form 90-L) (*Louisiana Register*, Volume 32, Number 12). The department promulgated an Emergency Rule to amend the September 20, 2004 Rule to: 1) redefine the target population; 2) establish provisions governing placement on the request for services registry; 3) clarify the comprehensive plan of care requirements; and 4) establish provider reporting requirements and admission and discharge criteria for the ADHC Waiver (*Louisiana Register*, Volume 33, Number 3). The department amended the provisions contained in the March 20, 2007 Emergency Rule to more precisely define the target population, establish explicit provisions governing placement on the request for services registry and admission and discharge criteria for the ADHC Waiver (*Louisiana*

Register, Volume 33, Number 5). This Emergency Rule is being promulgated to further clarify the provisions of the May 20, 2007 Emergency Rule.

This action is being taken to avoid federal sanctions which may result from not having provisions to clearly define the ADHC target population and admission and discharge criteria. It is anticipated that implementation of this Emergency Rule will not have a fiscal impact in the Medicaid Program for state fiscal year 2007-2008.

Effective August 20, 2007, the Department of Health and Hospitals, Office of Aging and Adult Services amends the provisions of the September 20, 2004 Rule and the May 20, 2007 Emergency Rule governing the Adult Day Health Care Waiver program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services

Waivers

Subpart 3. Adult Day Health Care

Chapter 21. General Provisions

§2101. Introduction

A. These standards for participation specify the requirements of the Adult Day Health Care (ADHC) Waiver Program. The program is funded as a waiver service under the provisions of Title XIX of the Social Security Act and is administered by the Department of Health and Hospitals (DHH).

B. Waiver services are provided under the provisions of the approved waiver agreement between the Centers for Medicare and Medicaid Services (CMS) and the Louisiana Medicaid 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 30:2034 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 33:

§2103. Program Description

A. The Adult Day Health Care (ADHC) Waiver Program expands the array of services available to functionally-impaired individuals and helps bridge the gap between independence and institutional care by allowing them to remain in their own homes and communities. This program provides direct care for five or more hours in a 24-hour weekday to individuals who are physically and/or mentally impaired.

B. The target population for the ADHC Waiver Program includes individuals who:

- 1. are 65 years old or older; or
- 2. 22 to 64 years old and disabled according to Medicaid standards or the Social Security Administration's disability criteria; and
- 3. meet nursing facility level of care requirements.

C. The long-range goal for all adult day health care participants is the delay or prevention of long-term care facility placement. The more immediate goals of the Adult Day Health Care Waiver are to:

- 1. promote the individual's maximum level of independence;
- 2. maintain the individual's present level of functioning as long as possible, preventing or delaying further deterioration;

3. restore and rehabilitate the individual to the highest possible level of functioning;
4. provide support and education for families and other caregivers;
5. foster socialization and peer interaction; and
6. serve as an integral part of the community services network and the long-term care continuum of 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 30:2034 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 33:

§2107. Request for Services Registry

A. The Department of Health and Hospitals is responsible for the Request for Services Registry, hereafter referred to as "the registry," for the Adult Day Health Care Waiver. An individual who wishes to have his or her name placed on the registry shall contact a toll-free telephone number which shall be maintained by the department.

B. Individuals who desire their name to be placed on the ADHC Waiver registry shall be screened to determine whether they meet nursing facility level of care. Only individuals who meet this criterion will be added to the registry.

C. - D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and pursuant to 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 30:2035 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2256 (December 2006), LR 33:

§2109. Programmatic Allocation of Waiver Opportunities

A. When funding is appropriated for a new ADHC Waiver opportunity or an existing opportunity is vacated, the department shall send a written notice to an individual on the registry indicating that a waiver opportunity is available. That individual shall be evaluated for a possible ADHC Waiver opportunity assignment.

B. Adult Day Health Care Waiver opportunities shall be offered based upon the date of first request for services, with priority given to individuals who are in nursing facilities but could return to their home if ADHC Waiver services are provided. Priority shall also be given to those individuals who have indicated that they are at imminent risk of nursing facility placement.

1. A person is considered to be at imminent risk of nursing facility placement when he:

- a. is likely to require admission to a nursing facility within the next 120 days;
- b. faces a substantial possibility of deterioration in mental condition, physical condition or functioning if either home and community-based services or nursing facility services are not provided within 120 days; or
- c. has a primary caregiver who has a disability or is age 70 or older.

C. Remaining waiver opportunities, if any, shall be offered on a first-come, first-serve basis to individuals who qualify for nursing facility level of care, but who are not at imminent risk of nursing facility placement.

D. If an applicant is determined to be ineligible for any reason, the next individual on the registry is notified and the process continues until an individual is determined eligible. An ADHC Waiver opportunity is assigned to an individual when eligibility is established and the individual is certified.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 33:

Chapter 23. Provider Participation **§2313. Comprehensive Plan of Care (CPOC)**

A. ...

B. Reimbursement shall not be made for ADHC Waiver services provided prior to the department's approval of the CPOC. Comprehensive plans of care must be completed and submitted timely in accordance with DHH policy and procedures.

C. The ADHC provider shall complete a CPOC which shall contain the type and number of services, including waiver and all other services, necessary to maintain the waiver recipient safely in the community.

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 30:2040 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 33:

§2317. Reporting Requirements

A. ADHC facilities are obligated to report changes to the department that could affect the waiver recipient's eligibility including, but not limited to, those changes cited in the denial or discharge criteria.

B. ADHC facilities are responsible for documenting the occurrence of incidents or accidents that affect the health, safety and welfare of the recipient and completing an incident report. The incident report shall be submitted to the department with the specified requirements.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 33:

Chapter 27. Admission and Discharge Criteria

§2701. Admission Criteria

A. Admission to the ADHC Waiver Program shall be determined in accordance with the following criteria:

1. initial and continued Medicaid financial eligibility;
2. initial and continued eligibility for a nursing facility level of care;
3. justification, as documented in the approved CPOC, that the ADHC Waiver services are appropriate, cost-effective and represent the least restrictive environment for the individual;
4. assurance that the health, safety and welfare of the individual can be maintained in the community with the provision of ADHC Waiver services.

B. Failure of the individual to cooperate in the eligibility determination process or to meet any of the criteria in §2701.A. above will result in denial of admission to the ADHC Waiver.

C. - G. 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 30:2041 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 33:

§2703. Denial or Discharge Criteria

A. Admission shall be denied or the recipient shall be discharged from the ADHC Waiver Program if any of the following conditions are determined.

1. The individual does not meet the criteria for Medicaid financial eligibility.
2. The individual does not meet the criteria for a nursing facility level of care.
3. The recipient resides in another state or has a change of residence to another state.
4. Continuity of services is interrupted as a result of the recipient not receiving and/or refusing ADHC Waiver services during a period of 30 consecutive days.
5. The health, safety and welfare of the individual cannot be assured through the provision of ADHC Waiver services.
6. The individual fails to cooperate in the eligibility determination process or in the performance of the CPOC.
7. It is not cost effective to serve the individual in the ADHC Waiver.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, 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 Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, LA 70821-2031. 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

0708#082

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of Aging and Adult Services**

Home and Community Based Services Waivers
Elderly and Disabled Adult Waiver
(LAC 50:XXI.Chapters 81 and 85)

The Department of Health and Hospitals, Office of Aging and Adult Services proposes to amend LAC 50:XXI.Chapters 81 and 85 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 adopted provisions governing home and

community-based waiver services for elderly and disabled adults in LAC 50:XXI.Chapters 81-89 (*Louisiana Register*, Volume 30, Number 8). The Division of Long Term Supports and Services amended the provisions governing the Elderly and Disabled Adult (EDA) Waiver to: 1) eliminate the duplication of like services currently provided in the waiver and as a Medicaid State Plan service; 2) define the existing service package and establish new services; and 3) revise the methodology for allocation of waiver opportunities (*Louisiana Register*, Volume 32, Number 7). The Department promulgated an Emergency Rule to amend the August 20, 2004 Rule to establish provisions governing placement on the request for services registry (*Louisiana Register*, Volume 33, Number 3). The department promulgated an Emergency Rule to amend the August 20, 2004 Rule to further clarify the provisions governing the EDA Waiver, including the provisions governing placement on the request for services registry, allocation of waiver opportunities and admission and discharge criteria (*Louisiana Register*, Volume 33, Number 5). This Emergency Rule is being promulgated to amend the August 20, 2006 Rule to further clarify the provisions of the May 20, 2007 Emergency Rule.

This action is being taken to promote the well-being of Louisiana citizens by facilitating access to home and community-based services through the adoption of clear and precise provisions for the EDA Waiver request for services registry and the allocation of waiver opportunities. It is anticipated that implementation of this Emergency Rule will not have a fiscal impact in the Medicaid Program for state fiscal year 2007-2008.

Effective August 20, 2007, the Department of Health and Hospitals, Office of Aging and Adult Services amends the provisions of the August 20, 2004 Rule and the May 20, 2007 Emergency Rule governing the Elderly and Disabled Adult Waiver program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services Waiver

Subpart 7. Elderly and Disabled Adults Waiver

Chapter 81. General Provisions

§8101. Introduction

A. The target population for the Elderly and Disabled Adult (EDA) Waiver Program includes individuals who:

1. are 65 years old or older; or
2. 21 to 64 years old and disabled according to Medicaid standards or the Social Security Administration's disability criteria; and
3. meet nursing facility level of care requirements.

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 30:1698 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 33:

§8103. Request for Services Registry

A. The Department of Health and Hospitals (DHH) is responsible for the Request for Services Registry, hereafter referred to as "the registry," for the Elderly and Disabled

Adult Waiver. An individual who wishes to have his or her name placed on the registry shall contact a toll-free telephone number which shall be maintained by the department.

B. Individuals who desire their name to be placed on the EDA Waiver registry shall be screened to determine whether they meet nursing facility level of care. Only individuals who meet this criterion will be added to the registry.

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 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 33:

§8105. Programmatic Allocation of Waiver Opportunities

A. When funding is appropriated for a new EDA Waiver opportunity or an existing opportunity is vacated, the Department shall send a written notice to an individual on the registry indicating that a waiver opportunity is available. That individual shall be evaluated for a possible EDA Waiver opportunity assignment.

B. EDA Waiver opportunities are offered based on the date of first request for services, with priority given to individuals who are in a nursing facility, but could return to their home if EDA Waiver services are provided. Priority shall also be given to those individuals who have indicated that they are at imminent risk of nursing facility placement.

1. A person is considered to be at imminent risk of nursing facility placement when he:

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

b. faces a substantial possibility of deterioration in mental condition, physical condition or functioning if either home and community-based services or nursing facility services are not provided in within 120 days; or

c. has a primary caregiver who has a disability or is age 70 or older.

C. Remaining waiver opportunities, if any, shall be offered on a first-come, first-serve basis to individuals who qualify for nursing facility level of care, but who are not at imminent risk of nursing facility placement.

D. If an applicant is determined to be ineligible for any reason, the next individual on the registry is notified as stated above and the process continues until an individual is determined eligible. An EDA Waiver opportunity is assigned to an individual when eligibility is established and the individual is certified.

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 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 33:

Chapter 85. Admission and Discharge Criteria

§8501. Admission Criteria

A. - A.3. ...

4. assurance that the health, safety and welfare of the individual can be maintained in the community with the provision of ADHC Waiver services.

B. Failure of the individual to cooperate in the eligibility determination process or to meet any of the criteria in §8501.A. will result in denial of admission to the EDA Waiver.

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 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1246 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 33:

§8503. Denial or Discharge Criteria

A. Admission shall be denied or the recipient shall be discharged from the EDA Waiver Program if any of the following conditions are determined.

1. The individual does not meet the criteria for Medicaid financial eligibility.

2. The individual does not meet the criteria for a nursing facility level of care.

3. The recipient resides in another state or has a change of residence to another state.

4. Continuity of services is interrupted as a result of the recipient not receiving and/or refusing EDA Waiver services during a period of 30 consecutive days.

5. The health, safety and welfare of the individual cannot be assured through the provision of EDA Waiver services within the individual's cost effectiveness.

6. The individual fails to cooperate in the eligibility determination process or in the performance of the CPOC.

7. Failure on behalf of the individual to maintain a safe and legal home environment.

8. It is not cost effective to serve the individual in the EDA Waiver.

9. - 10. 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 Community Supports and Services, LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1246 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, 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 Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, LA 70821-2031. 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

0708#088

DECLARATION OF EMERGENCY

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

Medical Transportation Program
Emergency and Non-Emergency Ambulance Services
Reimbursement Rate Increase
LAC 50:XXVII.Chapters 3-5)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XXVII.Chapters 3-5 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides reimbursement for emergency and non-emergency ambulance services. Reimbursement for these services is the base rate established by the bureau minus the amount which any third party coverage would pay. As a result of the allocation of additional funds by the Legislature during the 2002 and 2006 Regular Sessions, the bureau increased the reimbursement rate for certain designated procedure codes for non-emergency ambulance transportation services (*Louisiana Register*, Volume 28, Number 12) and increased the base rate and ground mileage reimbursement rate for emergency ambulance transportation services (*Louisiana Register*, Volume 33, Number 3).

Act 18 of the 2007 Regular Session of the Louisiana Legislature authorized expenditures to the Medical Vendor Program to increase the ground mileage rate and ancillary services rate for emergency and non-emergency ambulance transportation services. In compliance with the directives of Act 18, the department now proposes to amend the reimbursement methodology for emergency and non-emergency ambulance transportation services to increase the ground mileage rate and the ancillary services rate. This action is being taken to promote the health and welfare of recipients and to maintain access to emergency ambulance transportation services by encouraging the continued participation of these providers in the Medicaid Program. It is estimated that the implementation of this Emergency Rule will increase expenditures in the Medical Transportation Program by approximately \$4,362,674 for state fiscal year 2007-2008.

Effective September 1, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing increases the reimbursement rates for

emergency and non-emergency ambulance transportation services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 3. Emergency Medical Transportation

Subchapter B. Ground Transportation

§325. Reimbursement

A. The Medicaid reimbursement for land-based ambulance services is the rate established in the State fee schedule (based on Medicare rates) for emergency ambulance transport, basic life support, advanced life support and mileage, oxygen, intravenous fluids, and disposable supplies administered during the emergency ambulance transport minus the amount paid by any liable third party coverage.

B. For dates of service on or after September 1, 2006, the base rate for emergency ambulance transportation services shall be increased by 5 percent of the rates in effect on August 31, 2006.

C. For dates of service on or after September 1, 2006, the ground mileage reimbursement rate for emergency ambulance transportation services shall be increased by 17 percent of the rates in effect on August 31, 2006.

D. For dates of service on or after September 1, 2007, the ground mileage reimbursement rate for emergency ambulance transportation services shall be increased by \$2.50 of the rate in effect on August 31, 2007.

E. For dates of service on or after September 1, 2007, the ancillary services rate for emergency ambulance transportation services shall be increased by 70 percent of the rate in effect on August 31, 2007.

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:

Chapter 5. Non-Emergency Medical Transportation

Subchapter D. Reimbursement

§571. Non-Emergency Ambulance Transportation

A. Reimbursement for non-emergency ambulance transportation claims shall be allowed only when accompanied by the medical certification form justifying the need for ambulance services.

B. For dates of service on or after September 1, 2007, the ground mileage reimbursement rate for non-emergency ambulance transportation services shall be increased by \$2.50 of the rate in effect on August 31, 2007.

C. For dates of service on or after September 1, 2007, the ancillary services rate for non-emergency ambulance transportation services shall be increased by 70 percent of the rate in effect on August 31, 2007.

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:

§573. Non-Emergency, Non-Ambulance Transportation

A. For dates of service on or after September 1, 2006, the reimbursement rate for non-emergency, non-ambulance medical transportation services shall be increased by 5 percent of the rates in effect on August 31, 2006.

B. For dates of service on or after December 1, 2006, the reimbursement rate for non-emergency, non-ambulance medical transportation services shall be increased by an additional 9 percent of the rates in effect on November 30, 2006.

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, 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

0708#089

DECLARATION OF EMERGENCY

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

State Children's Health Insurance Program
Coverage of Prenatal Care Services
(LAC 50:III.20101-20105)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:III.20101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI 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 implemented a Medicaid expansion program under the provisions of Title XXI of the Social Security Act called the Louisiana Children's Health Insurance Program (LaCHIP) (*Louisiana Register*, Volume 24, Number 10). LaCHIP provided health care coverage to uninsured children up to age 19 with family income below 133 percent of the federal poverty level (FPL). The October 20, 1998 Rule was subsequently amended to: 1) implement the second phase of LaCHIP which expanded coverage to uninsured children with family income up to 150 percent of the FPL (*Louisiana Register*, Volume 25, Number 9); and 2) implement the third phase which expanded coverage to uninsured children with family income up to 200 percent of the FPL (*Louisiana Register*, Volume 26, Number 12).

The bureau by Emergency Rule expanded coverage to children under Title XXI of the Social Security Act by implementing a stand-alone State Children's Health

Insurance Program (SCHIP) to provide coverage of prenatal care services to low income, non-citizen women (*Louisiana Register*, Volume 33, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 1, 2007 Emergency Rule. This action is being taken to promote the health and well-being of children by increasing access to prenatal care services in order to reduce the occurrence of premature deliveries and costly emergency care for drop-in deliveries.

Effective August 30, 2007, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts provisions to establish State Children's Health Insurance Program coverage of prenatal care services as an expansion of coverage for children under the provisions of Title XXI of the Social Security Act.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 11. State Children's Health Insurance Program Chapter 201. Prenatal Care Services

§20101. General Provisions

A. Effective May 1, 2007, the Department of Health and Hospitals will provide State Children's Health Insurance Program (SCHIP) coverage of prenatal care services to low income, non-citizen women as an expansion of coverage for children under Title XXI of the Social Security Act. SCHIP coverage of prenatal care services will be an expansion of coverage for children, from conception to birth, with income from 0 percent through 200 percent of the federal poverty level (FPL).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI 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:

§20103. Eligibility Criteria

A. An applicant must be a Louisiana resident and cannot be eligible for Medicaid benefits under the provisions of Title XIX of the Social Security Act.

B. Applicants must be uninsured at the time of application.

1. Applicants are considered to be uninsured if they do not have creditable health insurance that provides coverage of prenatal care services.

C. Recipients must have family income at or below 200 percent of the FPL.

D. Recipients cannot be covered under a group health insurance plan or have creditable health insurance coverage and cannot have access to a state employee health benefits plan.

1. A state employee health benefits plan is a plan that is offered or organized by the state government, or on behalf of state employees, or other public agency for employees within the state.

E. Recipients shall be eligible to receive SCHIP coverage of prenatal care services from the month of conception or the first month of eligibility following conception, whichever is later, through the month of birth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI 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:

§20105. Services

A. Covered Services. Recipients shall receive coverage of pregnancy-related health care services and associated medically necessary services for conditions that, if not treated, would complicate the pregnancy. Pregnancy-related health care services which may be covered include:

1. inpatient and outpatient health care services;
2. physician services;
3. surgical services;
4. clinic and other ambulatory health care services;
5. prescription and over-the-counter medications;
6. laboratory and radiological services;
7. pre-natal care and pre-pregnancy family services and supplies;
8. inpatient and outpatient mental health services other than those services relative to substance abuse treatment;
9. durable medical equipment and other medically-related or remedial devices;
10. disposable medical supplies;
11. nursing care services;
12. extended dental services for pregnant women;
13. case management services;
14. physical therapy, occupational therapy and services for individuals with speech, hearing and language disorders;
15. medical transportation services; and
16. any other medically necessary medical, diagnostic, screening, preventive, restorative, remedial, therapeutic or rehabilitative services.

B. Service Limits. Sterilization procedures are not a covered service in this program. Other Medicaid-specific benefit limits, age limits and prior authorization requirements may be applicable to the services covered in this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XXI 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

0708#086

DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Office of the Secretary
Office for Citizens with Developmental Disabilities**

**Home and Community-Based Services Waivers
Children's Choice—Service Cap Increase
(LAC 50:XXI.11301)**

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends LAC 50:XXI.11301 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 repromulgated all of the rules governing the Children's Choice Waiver under the Louisiana Administrative Code (*Louisiana Register*, Volume 28, Number 9). The Children's Choice Waiver provides services with greater flexibility which is appropriate to families who care for children with disabilities. The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities by Emergency Rule amended the provisions governing the Children's Choice Waiver to increase the service cap (*Louisiana Register*, Volume 33, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2007 Emergency Rule. This action is being taken to promote the health and safety of waiver recipients by assuring that they receive adequate services and supports.

Effective September 18, 2007, the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends the provisions governing the Children's Choice Waiver to increase the service cap.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based
Services Waivers
Subpart 9. Children's Choice**

**Chapter 113. Service
§11301. Service Cap**

A. Children's Choice services are capped at \$17,000 per individual per plan of care year.

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 Health Services Financing, LR 28:1983 (September 2002), amended 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 Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She 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

0708#084

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers New Opportunities Waiver—Direct Support Professionals Wage Enhancement (LAC 50:XXI.14101)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends LAC 50:XXI.14101 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 Community Supports and Services implemented a new home and community based services waiver, the New Opportunities Waiver (NOW), designed to enhance the support services available to individuals with developmental disabilities (*Louisiana Register*, Volume 30, Number 6). The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities promulgated an Emergency Rule to amend the provisions of the June 20, 2004 Rule governing the reimbursement methodology for the New Opportunities Waiver to implement a wage pass-through payment for direct support professionals who provide Individual and Family Support Services to NOW recipients (*Louisiana Register*, Volume 33, Number 2). The department by Emergency Rule amended the provisions of the February 9, 2007 Emergency Rule to also include a wage pass-through, hereafter referred to as a wage enhancement, payment for direct support professionals who provide Day Habilitation, Supported Employment, Employment-Related Training and Center-Based Respite services to NOW recipients (*Louisiana Register*, Volume 33, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2007 Emergency Rule. This action

is being taken to promote the health and well-being of waiver recipients by assisting providers to recruit and retain sufficient direct care staff to assure continued access to services.

Effective September 18, 2007, the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends the provisions of the February 9, 2007 Emergency Rule governing the reimbursement methodology for the New Opportunities Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

Subpart 11. New Opportunities Waiver

Chapter 141. Reimbursement

§14101. Reimbursement Methodology

A. - E.1. ...

F. Direct Support Professionals Wage Enhancement

1. Effective February 9, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide Individual and Family Support Services to New Opportunities Waiver recipients.

2. Effective May 20, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide the following services to New Opportunities Waiver recipients:

- a. Day Habilitation;
- b. Supported Employment;
- c. Employment-Related Training; and
- d. Center-Based Respite.

3. At least 75 percent of the wage enhancement shall be paid to personal care workers as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent, shall be used to pay employer-related taxes, insurance and employee benefits.

4. The minimum hourly rate paid to direct support professionals shall be the current minimum wage plus 75 percent of the wage enhancement.

5. Providers shall be required to submit a certified wage register to the department verifying the direct support professionals' gross wages for the quarter ending June 30, 2005. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

- a. gross wage paid to the direct support professional(s);
- b. total number of direct support hours worked; and
- c. the amount paid in employee benefits.

6. A separate report shall be submitted for paid overtime.

7. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.

8. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage enhancement.

9. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

10. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support professionals may result in:

- a. forfeiture of eligibility for wage enhancement payments;
- b. recoupment of previous wage enhancement payments;
- c. Medicaid fraud charges; and
- d. disenrollment in the Medicaid 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 Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, 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 Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She 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

0708#085

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Office for Citizens with Development Disabilities

Home and Community-Based Services Waivers Supports Waiver—Direct Support Professionals Wage Enhancement (LAC 50:XXI.6101)

The Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends LAC 50:XXI.Chapter 61 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, Office for Citizens with Developmental Disabilities implemented a home and community-based services waiver, the Supports Waiver, to promote the independence of individuals with developmental disabilities by creating vocational and community inclusion options to enhance their lives (*Louisiana Register*, Volume 32, Number 9). This department by Emergency Rule amended the provisions of the September 20, 2006 Rule governing the reimbursement methodology for the Supports Waiver to implement a wage enhancement payment to providers for

direct support professionals (*Louisiana Register*, Volume 33, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2007 Emergency Rule. This action is being taken to promote the health and well-being of waiver recipients by assisting providers to recruit and retain sufficient direct care staff to assure continued access to services.

Effective September 18, 2007, the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities amends the provisions governing the reimbursement methodology for the Supports Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

Subpart 5. Supports Waiver

Chapter 61. Reimbursement

§6101. Reimbursement Methodology

A. - H. ...

I. Direct Support Professionals Wage Enhancement

1. Effective May 20, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide the following services to Support Waiver recipients:

- a. Habilitation;
- b. Supported Employment;
- c. Day Habilitation;
- d. Center-Based Respite; and
- d. Prevocational Services.

2. At least 75 percent of the wage enhancement shall be paid to the direct support professional as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent, shall be used to pay employer-related taxes, insurance and employee benefits.

3. The minimum hourly rate paid to direct support professionals shall be the current minimum wage plus 75 percent of the wage enhancement.

4. Providers shall be required to submit a certified wage register to the department verifying the direct support professionals' gross wages for the quarter ending March 31, 2007. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

- a. gross wage paid to the direct support professional(s);
- b. total number of direct support hours worked; and
- c. the amount paid in employee benefits.

5. A separate report shall be submitted for paid overtime.

6. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.

7. The provider shall submit a report, according to the department's specifications, that will be used to measure the effectiveness of the wage enhancement.

8. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

9. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support professionals may result in:

- a. forfeiture of eligibility for wage enhancement payments;
- b. recoupment of previous wage enhancement payments;
- c. Medicaid fraud charges; and
- d. disenrollment from the Medicaid 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, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended 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 Kathy Kliebert, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. She 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

0708#087

DECLARATION OF EMERGENCY

Department of Social Services Office of Community Services

Allocation of Hurricane Relief Funds Supplemental Appropriation (LAC 67:V.717)

The Department of Social Services (DSS), Office of Community Services (OCS), has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt LAC 67:V.Section 717, Allocation of Hurricane Relief Funds Supplemental Appropriation effective July 21, 2007. This action is necessary to extend the original Emergency Rule that was effective March 23, 2007, but will expire before the final Rule is published. Additionally, DSS/OCS will enter into agreements with the Governor's Office of Elderly Affairs to provide necessary services to Louisiana's senior citizens and the Orleans Metro Housing (local non-profit) to assist hurricane-affected clients in Orleans Parish, in locating suitable affordable housing in Orleans Parish. This Emergency Rule shall remain in effect for 120 days or until the publication of the final Rule in November 2007, whichever comes first.

Under the Department of Defense Appropriations Act (H.R. 2863), \$220,901,534 has been allocated to Louisiana in a supplemental appropriation to Social Service Block Grant funds for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005. In addition to other uses permitted by Title XX of the Social Security Act, funds appropriated under this heading may be used for health services, including mental health services, and for repair, renovation and construction of health facilities, including mental health facilities. It recognizes that the hurricanes in the Gulf of Mexico in calendar year 2005 have imposed extreme

demands for social and health care services in affected states. States may use SSBG funds for a wide array of human services. The Administration for Children and Families, (ACF) approved a waiver of the provisions under Section 2005 (a) of the Social Security Act on June 2, 2006 to allow the use of SSBG Supplemental funds for the rebuilding and construction of childcare facilities in Louisiana.

The Office of Community Services proposes to enter into contracts, memoranda of understanding, or other agreements with the entities listed in this rule including but not limited to such services as health services, including mental health services, for repair, renovation, and construction of facilities, including Class A child care facilities and mental health facilities, intensive benefits, and case management for the citizens of this state effected by the hurricanes.

Emergency action is necessary due to imminent peril to public health as the hurricanes in the Gulf of Mexico in calendar year 2005 have imposed extreme demands for social and health care services. SSBG funds may be used for a wide array of human services and the supplemental appropriation must be expended by September 30, 2009.

Two public hearings were held in accordance with SSBG rules and no comments were received.

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Chapter 7. Social Services Block Grant

§717. Allocation of Hurricane Relief Funds SSBG Supplemental Appropriation

A. Purpose, Need, and Eligibility

1. Under the Department of Defense Appropriations Act (H.R. 2863), \$220,901,534 has been allocated to Louisiana in a supplemental appropriation to Social Service Block Grant (SSBG) funds for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005. In addition to other uses permitted by Title XX of the Social Security Act, funds appropriated under this heading may be used for health services, including mental health services, and for repair, renovation and construction of facilities, including mental health facilities. The Administration for Children and Families, (ACF) approved a waiver of the provisions under Section 2005 (a) of the Social Security Act on June 2, 2006 to allow the use of SSBG Supplemental funds for the rebuilding and construction of childcare facilities in Louisiana.

2. The Office of Community Services (OCS) proposes to enter into contracts, memoranda of understanding, or other agreements with the entities listed in this rule including but not limited to such services as health services, including mental health services, for repair, renovation, and construction of facilities, including Class A child care facilities and mental health facilities, intensive benefits, and case management for the citizens of this state effected by the hurricanes. This Rule is effective for the SSBG allotment of federal fiscal year 2006.

3. It recognizes that the hurricanes in the Gulf of Mexico in calendar year 2005 have imposed extreme demands for social and health care services in affected states. States may use SSBG funds for a wide array of human services.

4. Because of the nature of the natural disaster, many affected individuals and families will not have in their possession customary documentation of their economic status to substantiate eligibility for SSBG supported services. Also, many individuals or families who may not have been eligible for assistance prior to the hurricanes may be, because of the devastation, eligible now. Therefore, "presumptive eligibility" determinations may be made based on applicant residence in known areas of devastation at the time of hurricane Katrina (H Katrina) or hurricane Rita (H Rita) or post-hurricane experience of affected individuals or families. Each entity that receives the SSBG funding can have additional or different eligibility requirements.

5. The following areas to be addressed include:

a. the health care needs of people affected by the hurricanes in the Gulf of Mexico in calendar year 2005 and who lack health insurance or other adequate access to care and to help health care create a 'safety net.' This would include intended uses of these funds in areas of mental health service provision and provision for substance and addictive disorder interventions and services;

b. expanding services to meet the needs of families in the child welfare system in the areas of foster care, adoption, prevention, intervention, and protective services in child welfare;

c. institutions serving these populations in order to build community health centers, rural hospitals and clinics, community mental health centers, public hospitals, and other providers with substantial percentages of uninsured patients. Funds may be made available for repairs and reconstruction needed to allow health centers and similar providers to resume or expand operations, or to help key providers meet salary and other costs associated with resuming or restoring health services;

d. providing social service delivery and case management services to families in order to assist with identification of housing needs, development of individualized recovery plans and referral of families to available disaster relief services, provide for case management and follow-up with families, and to provide for direct emergency assistance in human services;

e. restoring critical child care services will support families as they return to work in hurricane affected parishes. Child care supports are vital to reestablishing a workforce and strengthening our state's economy. Child care is a critical need to promote independence and safety of families and children. Restoring the child care infrastructure is a current need in Louisiana. Funds will be available to rebuild the child care infrastructure by repairing and/or building Class A child care centers and providing training and technical assistance necessary in attracting and retaining a child care workforce.

B. Department of Social Services

1. Child Welfare Services—Foster Care, Adoption, Prevention, Intervention and Protective Services. Services will include anger management, parenting skills, counseling, etc. Visitation expenses include travel for the foster child and foster parent/caretaker from their displaced location to the birthparent's location, lodging, and meals during the travel. This includes travel both within and outside of Louisiana. It is estimated that 2/3 of impacted children lost at least a significant portion or all of their personal belongings that

have yet to be replaced. These were possessions lost or damaged during the time during and after H Katrina or H Rita. These funds will be used in this arena. These funds will be used to provide for the youth effected by H Katrina or H Rita in OCS independence programs. These are programs used to assist children aging out of foster care custody and who have greater needs for transitional assistance than is typically provided, especially in the aftermath of the upheaval and displacement brought on by the storms of 2005. These funds will be used for foster care reunification services, as additional demands for such services are felt as a result and impact on the child welfare system of services due to H Katrina and H Rita. After most disasters, there is an evidenced increase in abuse and/or neglect as well as disruptions in foster care. Such funds will be used to obtain trauma-related services to help stabilize placements and prevent disruptions by providing increased service access for family services, respite care, counseling, parenting classes, etc.

2. Child Care Services. Louisiana must rebuild the child care infrastructure in the hurricane affected parishes to assist families in returning to work while ensuring their children receive quality child care. To meet the critical need for child care in Louisiana, DSS/OFS will implement a child care support system to rebuild the child care sector. This will be done by three initiatives.

a. Training and Technical Assistance for Child Care Providers. The objective of this program is to provide intensive training and technical assistance for current and prospective child care providers to increase the supply of child care businesses opening and reopening in the hurricane affected areas. Training and technical assistance will also be provided to current and prospective child care providers and other professionals engaged in the system. The services will be available in Calcasieu, Cameron, Orleans, Jefferson, Plaquemines, St. Bernard, St. Tammany and Washington Parishes.

b. Furnishing Child Care Centers Program. This component will offer a program for equipping, furnishing, and supplying Class A Child Care centers whose licenses were suspended due to hurricane-related damage and have reopened, Class A centers in the process of opening or reopening, or Class A centers being constructed. An assessment of each center will be conducted and a priority for equipping Class A child care centers will be established. Furnishings, equipment and supplies include but are not limited to curriculum, books, furniture, appliances, office equipment, developmentally and age appropriate play equipment for both indoor and outdoor space and other items appropriate to the operation of a Class A licensed day care center.

i. Eligibility will be limited to the Class A child care centers that are currently participating in the Child Care Assistance Program (CCAP) funding; those reopening, that participated in the CCAP within a year prior to August 2005; or for those new Class A child care centers that have opened since August 29, 2005, and are committing to serve CCAP eligible children within 60 days of opening for business.

ii. The program will be offered in Calcasieu, Cameron, Orleans, Jefferson, Plaquemines, St. Bernard, St. Tammany and Washington parishes.

iii. Eligible expenses dated October 1, 2005 or after will be reimbursable. Eligible reimbursable expenses are those not covered by other reimbursements, such as insurance and other state or federal funds.

iv. Class A child care centers participating in this program must agree to accept all requirements as defined by SSBG and the state, including federal and state interest.

c. Child Care Facilities Restoration Fund: This program will provide funds for repair and/or construction of Class A child care centers in hurricane devastated parishes Calcasieu, Cameron, Orleans, Jefferson, Plaquemines, St. Bernard, St. Tammany and Washington. The state must apply its appropriate administrative standards when issuing sub awards to guarantee the protection and disposition of real estate rebuilt, constructed or purchased with grant funds and the state is also required to file a Notice of Federal Interest document to officially recognize the Federal Government's continuing financial interest in the property. The minimum eligibility criteria for the Child Care Facilities will include the following:

i. previously held Class A license or agree to become a Class A licensed facility and agree to maintain a Class A license;

ii. for Class A centers that previously held a Class A license, have served children subsidized with CCAP funds within 12 months prior to August 2005 and commit to doing so moving forward, and provide assurance that SSBG funding along with any other identified funding will allow the center to reopen and serve children;

iii. for an entity wishing to open a new Class A child care center, must declare intention to serve children subsidized with CCAP funding and provide assurance that SSBG funding along with any other identified funding will allow the center to reopen and serve children;

iv. must provide evidence of current demand for services;

v. must provide evidence of capacity to provide quality child care services;

vi. must agree to accept all requirements as defined by SSBG and the state including federal and state interest;

vii. eligible expenses dated October 1, 2005 or after will be reimbursable. Eligible reimbursable expenses are those not covered by other reimbursements, such as insurance and other state or federal funds.

C. Department of Health and Hospitals

1. Behavioral Health Services

a. Funds shall be used to restore and expand mental health services, substance abuse treatment and prevention services and developmental disability services as follows:

i. immediate intervention—crisis response system;

ii. substance abuse treatment and prevention;

iii. behavioral health services for children and adolescents;

iv. preventing or reducing inappropriate institutional care;

v. behavioral health program restoration and resumption;

vii. health care work force; and

vii. operational tools

2. Preventive and Primary Care. Funds shall be used to issue grant awards to parishes as bridge funding to restore and develop comprehensive and integrated primary, preventive and behavioral health care services, with an emphasis on restoring safety net services for the uninsured and underinsured.

D. Louisiana State University Health Sciences Center (LSU-HSC)

1. Funds Allocated to LSU. HSC would be used as follows:

a. keep the healthcare workforce intact by retaining faculty and residents;

b. set up primary care clinics across the city with funding for salaries for dentists, physicians, nurses and allied health personnel;

c. expand capabilities to address psychiatric needs in New Orleans and surrounding areas;

d. support the general dentistry residency, oral and maxillofacial surgery residency, and oral medicine programs that provide preventive and primary care to the uninsured at multiple sites in the state;

e. prepare an adequate number of allied health professionals who can function in primary, secondary, and tertiary care through the School of Allied Health Professions. The LSUHSC-New Orleans is a primary source of graduate level practitioners in the areas of Physical Therapy, Occupational Therapy, Speech and Language Pathology, Audiology, Medical Technology, Cardiopulmonary Technology, and Rehabilitation Counseling for New Orleans and the state of Louisiana;

f. resume Early Intervention Institute and the Human Development Center direct service, consultative, and advocacy programs for individuals with disabilities. Reestablishing these services will ensure maintenance of high-quality health care educational experiences for individuals who work with these citizens who represent a portion of our population that is typically uninsured, underserved, and at the greatest risk for developing physical and mental problems.

E. LSU Health Care Services Division (HCSO)

1. Funding to the HCSO in the current fiscal year will enable the division to continue providing the following services:

a. the enhancement of primary care services at the regional hospitals to accommodate the population shifts which have occurred;

b. the patient pharmaceutical procurement program which matches needy patients with low cost medications that are essential to proper management of such conditions as diabetes, hypertension, asthma, HIV and asthma which have the effect of preventing further and or rapid development of the disease;

c. provide needed financing for eight neighborhood health units currently under development for placement in New Orleans;

d. continued funding of the EMED currently at the New Orleans Convention Center;

e. funding for the Level I Trauma Service operational costs anticipated at the Elmwood Hospital location;

f. Provide the HCSD hospitals with the ability to continue its current level of support for Mental and Behavioral Health Programs.

F. Louisiana Family Recovery Corps

1. The Department of Social Services, Office of Community Services (DSS/OCS) will contract with the Louisiana Family Recovery Corps (LFRC) to provide (SSBG) approved services to individuals and families displaced by Hurricanes Katrina or Rita through programs developed by LFRC. The LFRC, an independent non-profit organization, was created to mobilize and coordinate humanitarian services to displaced Louisiana families in the wake of these disasters.

2. Eligibility for SSBG approved services is limited to individuals and families that were displaced as a result of Hurricane Katrina or Hurricane Rita. LFRC, in coordination with the department, is authorized to develop programs with more restrictive eligibility requirements than those provided above, including but not limited to financial eligibility, pre-storm residence, current or prospective residence, age, and disability.

3. Eligible services are those directed at the goals of:

- a. achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;
- b. achieving or maintaining self-sufficiency, including reduction or prevention of dependency;
- c. preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;
- d. preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; and,
- e. securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

4. LFRC, in coordination with the department, is authorized to develop programs that provide services that are necessary to address the consequences of the hurricanes for the eligible population and are directed at the goals of SSBG.

G. Tulane University Health Sciences Center

1. Tulane University will help sustain the health care safety net in New Orleans, as well as assist in responding to the new health care crisis in this community. These funds may be utilized in the following areas:

- a. sustain, and when needed, enhance capacity to provide primary care, emergency care, public health preparedness and training, adult and child psychiatry, women's health, children's health, health equality, environmental health, infectious diseases to the to under and uninsured;
- b. maintain a high-quality biomedical workforce in the greater New Orleans region through retention of existing healthcare faculty and residents;
- c. support for the School of Public Health and Tropical Medicine;
- d. retention and establishment of primary care clinics;
- e. support for Cancer Center and Gene Therapy Center;
- f. support for clinical research and supporting faculty and staff.

H. Governor's Office of Elderly Affairs

1. The Department of Social Services will enter into an agreement with the Governor's Office of Elderly Affairs to provide necessary services to seniors as a result of hurricanes Rita or Katrina of 2005.

2. Eligibility for SSBG approved services is as follows:

- a. age 60 or over; and
- b. individuals with an adult onset disability who have a need for living assistance;
- c. clients must have resided in one of the 37 federally declared disaster parishes at the time of hurricanes Katrina and Rita of 2005. Those parishes are Acadia, Allen, Ascension, Assumption, Calcasieu, Cameron, Beauregard, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, West Baton Rouge, and West Feliciana Parish.

3. Services to be provided include the following.

- a. Material Aid Assistance includes but is not limited to assistance with prescription drugs not covered by another program, adult diapers or other personal hygiene items, basic furniture items (beds or bedding), assistance devices, such as walkers, canes, wheelchairs, and other goods such medical supplies.
- b. Minor home repairs needed in order to make homes safe and livable, such as replacement of windows, doors, door locks, minor roof repairs, flooring replacement, replacement of insulation, repairs to heating and cooling systems, and other minor repairs.
- c. Safety and access installations includes the installation of access ramps, safety grab bars in bathrooms.
- d. Chore Services. Necessary services could include, but are not limited to heavy indoor and outdoor housework such as mold removal, drapery removal/cleaning/re-installation, carpet sanitization, floor stripping and re-conditioning, debris removal, tree-trimming, or other lawn clean-up. (Routine lawn care or housework is not an allowable expense.)
- e. Information and Assistance (Information and Referral). This service assesses the client and determines what type of assistance is needed or makes provisions to provide this service. Most clients will only receive one unit of this service not to exceed \$25, which includes the agency placing this information into SAMS the existing client tracking system for GOEA.
- f. Transportation. This service will provide door-to-door assistance for clients when there is no other comparable service available. The client would make a call to reserve transport for medical appointments, to merchants who provide basic needs and any location where an applicant has an appointment for services (example: food stamp office, Road Home Center, local Council on Aging, etc.
- g. Home Care. This service will provide supervision and companionship in a home setting, not an institution, to ensure the health and safety of a senior or an individual with onset disabilities who cannot be left alone.
- h. Home Delivered Meals. Home-delivered meals are those services or activities designed to prepare and

deliver one or more meals a day to an individual's residence in order to prevent institutionalization, malnutrition, and feelings of isolation.

i. Other Needs. This category will serve clients with a service not being provided by any other source.

1. Orleans Metro Housing

1. The Department of Social Services will contract with the Orleans Metro Housing (local non-profit) to assist hurricane-affected clients in Orleans Parish, in locating suitable affordable housing in Orleans Parish.

2. To be eligible for services, clients must have lived in Orleans Parish prior to the storms of 2005. There are no age or income or other requirements.

3. Services provided by Orleans Metro Housing, include community outreach (through local churches, door-to-door in neighborhoods, etc.) to those in need of housing assistance in Orleans Parish, assisting clients in determining the types of housing that will best suit their needs and budget, matching up clients with available housing, maintaining an up-to-date inventory of sale and rental properties in the parish, referring clients to other non-profit home-buying programs if determined client has sufficient income, referring clients to agencies that provide financial assistance for housing and household expenses, negotiating with leasers or landlords on behalf of clients, and other related services.

AUTHORITY NOTE: Promulgated in accordance with Title XX of the Social Security Act and Department of Defense Appropriations Act (H.R. 2863).

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

Ann Silverberg Williamson
Secretary

0708#003

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Temporary Emergency Disaster Assistance Program (LAC 67:III.5583)

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 §5583, Temporary Emergency Disaster Assistance Program (TEDAP) effective August 29, 2007. This Rule shall remain in effect for a period of 120 days. This declaration is necessary to extend the original Emergency Rule effective May 1, 2007, since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. (The final Rule will be published in the October 2007 issue.)

The agency proposes to expand the income eligibility criteria of the TEDAP Program to 250 percent of the federal poverty level and to expand the list of allowable household establishment funds available to eligible families to include living accommodations, transportation, job skills or employment assistance, child care vouchers, non-medical substance abuse treatment, mental health services, utility

assistance, property repair, household items, basic personal items and moving assistance.

Emergency action is necessary due to the extreme demands for social services caused by the hurricanes in the Gulf of Mexico in calendar year 2005. TANF funds may be used for a wide array of human services and this appropriation must be expended by September 30, 2007. The authorization for emergency action in this matter is contained in Act 16 of the 2005 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Family Support

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

Chapter 55. TANF Initiatives

§5583. Temporary Emergency Disaster Assistance Program

A. Effective October 26, 2005, the agency will enter into contracts to provide disaster emergency services to needy families with dependent children or pregnant women who are displaced because of disasters. The program will provide the following services.

1. Services or Benefits Considered to Meet On-Going Basic Needs. These services shall not be provided for a period (in whole or in part) to exceed four months. Such services and benefits include, but are not limited to the provision of such items as basic personal items, household items, housing and utility assistance, living accommodations, transportation, job skills or employment assistance, child care vouchers, non-medical substance abuse treatment, mental health services, property repair, and moving assistance.

A.2 - B. ...

C. Eligibility for services is limited to needy families with minor dependent children, or minor dependent children living with caretaker relatives within the fifth degree of relationship, or pregnant women:

1. ...

2. whose income is at or below 250 percent of the federal poverty level or who are categorically eligible because a member of the family receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Food Stamps, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance Program (LaCHIP), Supplemental Security Income (SSI), or Free or Reduced School Lunch.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 16, 2005 Reg. Session, TANF Emergency Response and Recovery Act of 2005.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR:32 1617 (September 2006), amended LR 33:

Ann Silverberg Williamson
Secretary

0708#078

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2007-2008 Early Migratory Bird Seasons

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following Emergency Rule.

The hunting seasons for early migratory birds during the 2007-2008 hunting season shall be as follows.

Teal: September 15-September 30

Daily bag limit 4, possession limit 8, blue-winged, green-winged and Cinnamon teal only. Federal and state waterfowl stamps required.

Rails: Split Season, Statewide, 70 days
September 15 - September 30

Remainder of season to be set in August with the duck regulations.

King and Clapper: Daily bag limit 15 in the aggregate and possession 30 in the aggregate.

Sora and Virginia: Daily and possession bag 25 in the aggregate.

Gallinules: Split Season, Statewide, 70 days
September 15-September 30

Remainder of season to be set in August with the duck regulations.

Common and Purple: Daily bag limit 15 in the aggregate, possession of 30 in the aggregate.

Woodcock: December 18-January 31, Statewide
Daily bag limit 3, possession limit 6.

Snipe: Deferred to be set in August with the duck regulations.

Extended Falconry Season

Doves: the term "dove" refers to the following species: mourning doves, white-winged doves, Eurasian collared-doves and ringed-turtle doves. Statewide

September 17-October 9

Woodcock: Split Season, Statewide

October 28-December 17

February 1-February 11

Falconry daily bag and possession limits for all permitted migratory game birds must not exceed 3 and 6 birds, respectively, singly or in the aggregate, during the extended falconry seasons and regular hunting seasons. Remainder of extended falconry seasons for ducks, rails, gallinules to be set in August with the duck regulations.

Shooting and Hawking Hours:

Teal, Rail, Woodcock, and Gallinule: One-half hour before sunrise to sunset.

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting

opportunities to the 140,000 sportsmen, selection of season dates, bag limits, and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective on September 1, 2007 and extend through sunset on February 28, 2009.

Bryant O. Hammett, Jr.
Secretary

0708#052

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2007 Fall Shrimp Season

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or parts of state inside waters and shall have the authority to open or close state outside waters, the Wildlife and Fisheries Commission does hereby set the 2007 Fall Shrimp Season in inside waters to open as follows:

Shrimp Management Zone 1, that portion of Louisiana inside waters from the Mississippi-Louisiana state line to the eastern shore of South Pass of the Mississippi River, to open at 12 noon, August 13, 2007, and

Shrimp Management Zone 2, that portion of state inside waters from the eastern shore of South Pass of the Mississippi River to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, to open at 12 noon, August 13, 2007, and

Shrimp Management Zone 3, that portion of state inside waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island to the Louisiana-Texas state line, to open at 12 noon, August 6, 2007.

The Commission also hereby sets the closing date for the 2007 Fall Shrimp Season in inside waters in Zones 1, 2 and 3 at official sunset December 18, 2007 except in the open waters of Breton and Chandeleur Sounds as described by the double-rig line (LA R.S. 56:495.1(A)2) which shall remain open until 6:00 a.m., March 31, 2008. The Commission also grants authority to the Secretary of the Department of Wildlife and Fisheries to change the closing dates if biological and technical data indicate the need to do so or if enforcement problems develop and to close and reopen all or parts of state inside and outside waters if significant numbers of small white shrimp are found in these waters.

Patrick C. Morrow
Vice-Chairman

0708#050

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2007-2008 Oyster Season

In accordance with the emergency provisions of the Administrative Procedure Act, Louisiana Revised Statutes (R.S.) 49:953(B) and 967(D), and under the authority of R.S. 56:433, R.S. 56:435.1, and R.S. 56:435.1.1(D) notice is hereby given that the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby declare:

The 2007/2008 oyster season in the primary public oyster seed grounds east of the Mississippi River, as described in Louisiana Administrative Code (LAC) 76:VII.511 and LAC 76:VII.513, including 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, and including the Bay Gardene Public Oyster Seed Reservation, as described in R.S. 56:434.E, shall open one-half hour before sunrise on September 5, 2007 and close one-half hour after sunset on September 21, 2007. These areas shall then re-open at one-half hour before sunrise on November 12, 2007 and shall close one half-hour after sunset on April 1, 2008. The 2007 cultch plant locations in Black Bay and Turkey Bayou within the following coordinates shall remain closed:

Black Bay-Plaquemines Parish

1. 29 degrees 37 minutes 30 seconds N latitude
89 degrees 33 minutes 29 seconds W longitude
2. 29 degrees 37 minutes 30 seconds N latitude
89 degrees 33 minutes 00 seconds W longitude
3. 29 degrees 37 minutes 00 seconds N latitude
89 degrees 33 minutes 00 seconds W longitude
4. 29 degrees 37 minutes 00 seconds N latitude
89 degrees 33 minutes 30 seconds W longitude

Turkey Bayou-St. Bernard Parish

1. 30 degrees 05 minutes 05.51 seconds N latitude
89 degrees 19 minutes 06.05 seconds W longitude
2. 30 degrees 05 minutes 42.24 seconds N latitude
89 degrees 18 minutes 30.04 seconds W longitude
3. 30 degrees 05 minutes 30.76 seconds N latitude
89 degrees 18 minutes 14.56 seconds W longitude
4. 30 degrees 04 minutes 54.03 seconds N latitude
89 degrees 18 minutes 50.58 seconds W longitude

The oyster season in the Hackberry Bay Public Oyster Seed Reservation as described in R.S. 56:434.E shall open one-half hour before sunrise on September 5, 2007 and shall close one-half hour after sunset on September 21, 2007.

The oyster season in the Little Lake Public Oyster Seed Grounds as described in LAC 76:VII.521 shall open one-half hour before sunrise on September 5, 2007 and shall close one-half hour after sunset on September 21, 2007. Little Lake shall then re-open at one-half hour before sunrise on November 12, 2007 and shall close one half-hour after sunset on April 1, 2008.

The oyster season in the Lake Felicity and Lake Chien Public Oyster Seed Grounds as described in LAC 76:VII.51

shall open one-half hour before sunrise on October 24, 2007 and shall close one-half hour after sunset on October 26, 2007.

The oyster season in the Lake Mechant Public Oyster Seed Grounds as described in LAC 76:VII.517 shall open one-half hour before sunrise on October 24, 2007 and shall close one-half hour after sunset on October 31, 2007.

The oyster season in the Sister Lake Public Oyster Seed Reservation as described in R.S. 56:434.E shall open one-half hour before sunrise on November 12, 2007 and shall close one-half hour after sunset on December 5, 2007.

The Vermilion/East and West Cote Blanche/Atchafalaya Bay Public Oyster Seed Grounds, as described in LAC 76:VII.507 and LAC 76:VII.509, shall open one-half hour before sunrise on September 5, 2007 and shall close one-half hour after sunset on April 1, 2008.

The oyster season in the Calcasieu Lake public oyster area, as described in R.S. 56:435.1 and R.S. 56:435.1.1, is detailed as follows:

1. Calcasieu Lake West Cove Conditional Management Area (west side of Calcasieu Ship Channel) shall open one-half hour before sunrise on October 15, 2007 and shall close one half-hour after sunset on April 30, 2008.

2. Calcasieu Lake Conditional Management Area (east side of Calcasieu Ship Channel) shall open one-half hour before sunrise on November 1, 2007 and shall close one half-hour after sunset on April 30, 2008.

The sack limit for Calcasieu Lake is set at 15 sacks per day as provided for in R.S. 56:435.1.1. However, these conservation actions shall not supercede public health closures.

The following areas will remain closed for the 2007/2008 oyster season: the Bay Junop Public Oyster Seed Reservation (as described in R.S. 56:434.E), the Barataria Bay, Deep Lake, and Lake Tambour Public Oyster Seed Grounds (as described in LAC 76:VII:517), and the Sabine Lake Public Oyster Tonging Area as described in R.S. 56:435.1.

The Secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or where it is found that there are excessive amounts of non-living reef material in seed oyster loads, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered.

The secretary is authorized to take emergency action to reopen areas previously closed if the threat to the resource has ended, or may open areas if substantial oyster resources are located.

Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action unless such closure is ordered by the Department of Health and Hospitals for public health concerns.

Patrick C. Morrow
Vice-Chairman

0708#051

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimp Season Closure—Zone 1

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 Shrimp Management Zone 1 except for the open waters of Breton and Chandeleur Sounds as described by the double-rig line (R.S.56:495.1) will close on Monday, July 16 at 6 p.m. Zone 1 comprises state inside waters from the Mississippi-Louisiana state line to the eastern shore of South Pass of the Mississippi River.

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 those portions of Zone 1 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

0708#002