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# Title 67
# SOCIAL SERVICES
# Part I. General Administration

## Chapter 1. Drug Testing

### §101. Introduction and Purpose

A. The employees of the State of Louisiana are among the state's most valuable resources, and the physical and mental well-being of these employees is necessary for them to properly carry out their responsibilities. Substance abuse causes serious adverse consequences to users, impacting on their productivity, health and safety, dependents and co-workers, as well as the general public. Substance abuse on the job can cause undue risk of harm to the public in general and the children and other clients directly served by and dependent on the services of the Department of Social Services (DSS).

B. The State of Louisiana has a long-standing commitment to working toward a drug-free workplace. In order to curb the use of illegal drugs by employees of the State of Louisiana, the Louisiana Legislature enacted laws which provide for the creation and implementation of drug testing programs for state employees. Further, the Governor of the State of Louisiana issued Executive Order Number MJF 98-38 providing for the promulgation by executive agencies of written policies mandating drug testing of employees, appointees, prospective employees and prospective appointees, pursuant to R.S. 49:1001 et seq.

C. The Department of Social Services fully supports these efforts and is committed to a drug-free workplace.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1145 (June 1999).

### §103. Applicability

A. This policy shall apply to all employees of DSS including appointees and all other persons having any employment relationship with this agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1145 (June 1999).

### §105. Definitions

*Controlled Substance***C**a drug, chemical substance or immediate precursor in Schedules I through V of R.S. 40:964 or Section 202 of the Controlled Substances Act (21 U.S.C. 812).

*Designer (Synthetic) Drugs***C**those chemical substances that are made in clandestine laboratories where the molecular structure of both legal and illegal drugs is altered to create a drug that is not explicitly banned by federal law.

*Employee***C**unclassified, classified, and student employees, student interns, both paid and unpaid, and any other person having any employment relationship with the agency, regardless of the appointment type (e.g. full-time, part-time, temporary, etc.).

*Illegal Drug***C**any drug which is not legally obtainable or which has not been legally obtained, to include prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes or being used by one other than the person for whom prescribed.

*Public Vehicle***C**any motor vehicle, water craft, air craft or rail vehicle owned or controlled by the state.

*Reasonable Suspicion***C**belief based upon reliable, objective and articulable facts derived from direct observation of specific physical, behavioral, odorous presence, or performance indicators and being of sufficient import and quantity to lead a prudent person to suspect that an employee is in violation of this policy.

*Safety-Sensitive* or *Security-Sensitive***C**a position determined by the appointing authority to contain duties of such nature that the compelling state interest to keep the incumbent drug-free outweighs the employee's privacy interests. Executive Order Number MJF 98-38 sets forth the following non-exclusive list of examples of safety-sensitive and/or security-sensitive positions in state government:

1. positions with duties that may require or authorize the safety inspection of a structure;

2. positions with duties that may require or authorize access to a prison or an incarcerated individual;

3. positions with duties that may require or authorize carrying a firearm;

4. positions with duties that may allow access to controlled substances (drugs);

5. positions with duties that may require or authorize inspecting, handling, or transporting hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5);

6. positions with duties that may require or authorize any responsibility over power plant equipment;

7. positions with duties that may require instructing or supervising any person to operate or maintain, or that may require or authorize the operating or maintaining, any heavy equipment or machinery;

8. positions with duties that may require or authorize the operation or maintenance of a public vehicle, or the supervision of such an employee.

*Under the Influence*—for the purposes of this policy, a drug, chemical substance, or the combination of a drug, chemical substance that affects an employee in any detectable manner. The symptoms or influence are not confined to that consistent with misbehavior, nor to obvious impairment of physical or mental ability, such as slurred speech or difficulty in maintaining balance. A determination of influence can be established by a professional opinion or a scientifically valid test.

*Workplace*—any location on agency property including all property, offices, facilities, vehicles and equipment, whether owned, leased or otherwise used by the agency or by an employee on behalf of the agency in the conduct of its business, in addition to any location from which an individual conducts agency business while such business is being conducted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1145 (June 1999).

**§107. DSS Drug-free Workplace Policy**

A. It shall be the policy of DSS to maintain a drug-free workplace and a workforce free of substance abuse (see DSS Policy 8050-89). Employees are prohibited from reporting for work, performing work, or otherwise being on any duty status for DSS with the presence in their bodies of illegal drugs, controlled substances, or designer (synthetic) drugs at or above the initial testing levels and confirmatory testing levels as established in the contract between the State of Louisiana and the official provider of drug testing services. Employees are further prohibited from illegal use, possession, dispensation, distribution, manufacture, or sale of controlled substances, designer (synthetic) drugs, and illegal drugs at the work site and while on official state business, on duty or on call for duty.

B. To assure maintenance of a drug-free workforce, it shall be the policy of DSS to implement a program of drug testing in accordance with Executive Order Number MJF 98-38, R.S. 49:1001 et seq., and all other applicable federal and state laws, as set forth below.

C. DSS will begin drug testing after the Division of Administration (DOA) awards the request for proposal to a drug testing service and provides procedures to the department regarding the use of the drug testing service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1146 (June 1999).

**§109. Conditions Requiring Drug Tests**

A. DSS shall require drug testing under the following conditions.

1. Reasonable Suspicion. Any employee shall be required to submit to a drug test if there is a reasonable suspicion (as defined in this policy) that the employee is using illegal drugs. At least two supervisors/managers must concur there is reasonable suspicion before an employee is required to submit to a drug test.

2. Post-Accident. Each employee involved in an accident that occurs during the course and scope of employment shall be required to submit to a drug test if the accident:

a. involves circumstances leading to a reasonable suspicion of the employee's drug use;

b. results in a fatality; or

c. results in or causes the release of hazardous waste as defined in R.S. 30:2173(2) or hazardous materials as defined in R.S. 32:1502(5).

3. Rehabilitation Monitoring. Any employee who is participating in a substance abuse after-treatment program or who has a rehabilitation agreement with the agency shall be required to submit to random drug testing.

4. Pre-Employment. Each prospective employee shall be required to submit to drug screening at the time and place designated by the appointing authority or designee following a job offer contingent upon a negative drug-testing result. Pursuant to R.S. 49:1008, a prospective employee who tests positive for the presence of drugs in the initial screening or who fails to cooperate in the testing shall be eliminated from consideration for employment.

5. Safety-Sensitive and Security-Sensitive Positions—Appointments and Promotions. Each employee who is offered a safety-sensitive or security sensitive position (as defined in this policy) shall be required to pass a drug test before being placed in such position, whether through appointment or promotion. (See §119 listing of these positions.)

6. Safety-Sensitive and Security-Sensitive Positions—Random Testing. Every employee in a safety-sensitive or security-sensitive position shall be required to submit to drug testing as required by the appointing authority, who shall periodically call for a sample of such employees, selected at random by a computer-generated random selection process, and require them to report for testing. All such testing shall, if practicable, occur during the selected employee's work schedule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1146 (June 1999).

**§111. Procedure**

A. Drug testing pursuant to this policy shall be conducted for the presence of any illegal drugs including, but not limited to, cannabinoids (marijuana metabolites), cocaine metabolites, opiate metabolites, phencyclidine, and amphetamines in accordance with the provisions of R.S. 49:1001 et seq. DSS reserves the right to test employees for the presence of any other illegal drugs or controlled substance when there is a reasonable suspicion to do so.

B. The human resource director of each Office shall be involved in any determination that one of the above-named conditions requiring drug-testing exists. Upon such determination, the appointing authority or designee for each Office shall notify the supervisor of the employee to be tested, who shall immediately notify the employee where and when to report for the testing.

C. Testing services shall be performed by a provider chosen by the Office of State Purchasing, Division of Administration, pursuant to applicable bid laws. At a minimum, the testing service shall assure the following.

1. All specimen collections will be performed in accordance with applicable federal and state regulations and guidelines to ensure the integrity of the specimens and the privacy of the donors. The appointing authority or designee for each Office shall review and concur in advance with any decision by a collection site person to obtain a specimen under direct observation. All direct observation shall be conducted by a collection site person of the same gender.

2. Chain of custody forms must be provided to ensure the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition.

3. Testing shall be performed by a SAMSHA-certified (Substance Abuse Mental Services Health Administration) laboratory.

4. The laboratory shall use a cut-off of 50 ng/ml for a positive finding in testing for cannabinoids.

5. All positives reported by the laboratory must be confirmed by gas/chromatography/mass spectrometry.

6. All initial positive results of drug-testing shall be reported by the laboratory to a qualified medical review officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1146 (June 1999).

### §113. Confidentiality

All information, interviews, reports, statements, memoranda, and/or test results received by DSS through its drug testing program are confidential communications, pursuant to R.S. 49:1012, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where drug use by the tested individual is relevant. These records will be kept in a locked confidential file just as any other medical records are retained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1147 (June 1999).

### §115. Responsibilities

A. The Secretary of DSS is responsible for the overall compliance with this policy and shall submit to the Office of the Governor, through the Commissioner of Administration, a report on this policy and drug testing program; describing the process, the number of employees affected, the categories of testing being conducted, the associated costs of testing, and the effectiveness of the program by November 1 of each year.

B. The appointing authority or designee is responsible for administering the drug testing program; determining when drug testing is appropriate; receiving, acting on, and holding confidential all information received from the testing services provider and from the medical review officer; and collecting appropriate information necessary to agency defense in the event of legal challenge.

C. All supervisory personnel are responsible for assuring that each employee under their supervision receives a copy of this policy, signs a receipt form, and understands or is given the opportunity to understand and have questions answered about its contents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1147 (June 1999).

### §117. Violation of the Policy

A. Positive Test Result. Any employee reported with a confirmed positive test will be subject to the following disciplinary action, up to and including termination at the Secretary's discretion. Post-accident or return to duty tests which are positive will result in the employee's termination. At a minimum the following actions will be taken in the instance of a first positive test.

1. The safety-sensitive employee will be suspended without pay for a period of time determined by the appointing authority but not less than one week.

2. The employee must meet with an approved chemical abuse counselor for a substance abuse evaluation. The employee must release the substance abuse evaluation prior to returning to duty. The evaluation will become part of the follow-up plan for that employee to continue employment with the department.

3. The employee shall be screened on a random basis for not less than 12 months nor more than 60 months. Follow-up testing, return to duty testing, counseling and any other recommended treatment will be at the cost of the employee and not the department.

B. Refusal to Test. Any employee refusing to submit to a drug test will be subject to the consequences of a positive test. A refusal is defined as a verbal refusal, abusive language to the supervisor or personnel performing the test, or tampering of any sample, container, equipment or documentation of the sampling process. If a test is determined to be invalid, it is not considered a refusal and no disciplinary action will be taken. Inability to perform the testing procedures must be documented by a medical physician and recorded in the employee's personnel file.

C. Challenging Test Results. All initial screening tests must be confirmed by a second more accurate test with the results reviewed by a medical review officer. If a current or prospective employee receives a confirmed positive test result, he/she may challenge the test results within 72 hours of actual notification, with the understanding that he/she might be placed on suspension pending investigation, until the challenge is resolved. A written explanation of the reason for the positive test result may be submitted to the medical review officer. Employees who are on legally prescribed and obtained medication for a documented illness, injury or ailment will be eligible for continued employment upon receiving clearance from the medical review officer.

D. Other Violations. Each violation and alleged violation of this policy will be handled on an individual basis, taking into account all data, including the risk to self, fellow employees, clients, and the general public.

E. Failure to comply with provision of the policy, including but not limited to, the following, will be grounds for disciplinary action:

1. possession of controlled substances without a prescription or sale of controlled substances will be cause for immediate discharge;

2. refusal or failure to report to an approved counseling or rehabilitation program after voluntarily requesting help for drug addiction;

3. refusal or failure to report to an approved counseling or rehabilitation program, if advised by the department to do so, after a confirmed positive test for any substance prohibited by this policy;

4. leaving a treatment program prior to completion and not being properly released to return to work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1147 (June 1999).

### §119. Attachment A—Safety-Sensitive and Security-Sensitive Positions Within DSS

A candidate for one of the following positions will be required to pass a drug test before being placed in such a position, whether through appointment or promotion:

| | |
|---|---|
| Louisiana Rehabilitation Services | Registered Nurse<br>Licensed Practical Nurse<br>Psychiatric Aide Supervisor<br>Psychiatric Aide<br>Rehabilitation Facility Supervisor<br>Rehabilitation Aide<br>Maintenance Repairer<br>Maintenance Repairer Master<br>Administrative Specialist 3 (Position 060871) |
| Office of Family Support | Support Enforcement Specialist I<br>Support Enforcement Regional Administrator<br>Support Enforcement District Manager<br>Support Enforcement Specialist II<br>Support Enforcement Supervisor |
| Office of Community Services | Social Service Counselor I<br>Social Service Counselor II<br>Social Service Counselor Supervisor<br>Social Service Counselor/Adoption<br>Social Service Specialist Intern<br>Social Service Specialist I<br>Social Service Specialist II<br>Social Service Specialist III<br>Social Service Supervisor<br>Client Service Worker |
| Office of the Secretary/Office of Management and Finance | Licensing Specialist<br>External Auditor<br>Mailroom Courier |

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1148 (June 1999).

### §121. Attachment B—Procedures for Scheduling Drug Testing

A. On a yearly basis a percentage of all DSS employees in safety-sensitive or security-sensitive positions will be randomly drug-tested. One-twelfth of that number will be scheduled each month.

1. Information services will set up a computerized system which will randomly select a designated number of employees by social security numbers.

2. Each month the appropriate managers will be notified by human resources of the names of employees in their office location randomly selected to be drug-tested. The names of employees to be tested must be kept confidential at all times.

3. Based on each individual employee's schedule, at the earliest possible date within the designated month, the appropriate manager will notify the employee in writing first thing in the morning that they must report to a designated lab for testing. Human resources must be notified if an employee is on extended leave.

4. Each employee must go to the designated lab within 24 hours of being notified.

5. The office human resources personnel will be notified of the results of the tests. All test results must be kept confidential and retained in a locked file cabinet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:1001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 25:1148 (June 1999).

# Title 67
# SOCIAL SERVICES
## Part III. Family Support
## Subpart 1. General Administrative Procedures

## Chapter 1. Confidentiality

### §101. Release of Confidential Information

A. Information of the Department of Social Services pertaining to financial assistance programs may be released in accordance with the federal laws and regulations governing the release of information of the financial assistance programs.

B. Applicable federal laws include:

1. Social Security Act - Sec. 1106 (42 U.S.C. 1306);

2. Freedom of Information Act (5 U.S.C. 552 added by P.L. 90-23 and amended by P.L. 93-502 and P.L. 94-409);

3. Privacy Act of 1974 (5 U.S.C. 552a), P.L. 93-579;

4. Drug Abuse Office and Treatment Act (P.L. 92-255, 21 U.S.C. 1175) as amended by the Comprehensive Alcohol and Alcoholism Prevention, Treatment and Rehabilitation Act Amendment of 1974 (P.L. 93-282) (42 U.S.C. 4582) Section 6103 of the Internal Revenue Service Code (26 U.S.C. 6103), as amended by the Tax Reform Act of 1976 (P.L. 94-455);

5. "Government in the Sunshine Act" (P.L. 94-409);

6. The Family Education Right and Privacy Act (FERPA) (P.L. 93-568);

7. HHS Public Information Regulation (45 CFR Part 5);

8. HHS Privacy Act Regulations (45 CFR Part 5b);

9. SSA Regulation No. 1 (20 CFR Part 401);

10. SSA Regulation No. 22 (20 CFR Part 422);

11. The Tax Reform Act;

12. The Right to Financial Privacy Act of 1978;

13. Part B, Title XVI of the Federal Coal Mine and Safety Act;

14. 7 CFR Part 272.1(c) - Disclosure (Food Stamps);

15. 45 CFR Part 431 Subpart F - Safeguarding Information on Applicants and Recipients;

16. 45 CFR Part 74 Subpart D - Retention and Access;

17. Part 74.25 Restrictions on Public Access;

18. Part 205.50 - Safeguarding Information (FITAP);

19. Part 302.15 - State Plan Requirements - Reports and Maintenance of Records;

20. Part 303 - Standards for Program Operations;

21. Part 303.2 - Maintenance of Case Records;

22. Part 303.21 - Safeguarding Information;

23. Part 305 - Audit and Penalty;

24. Part 305.35 - Reports and Maintenance of Records.

25. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:56(A), (B), (C), (E), (F) (4), and (H).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:321 (April 1990), amended by the Office of Family Support, LR 23:79 (January 1997).

### §103. Confidential Information

A. Applications for assistance and information contained in case records of clients of the Division of Family Services of the Louisiana Health and Human Resources Administration shall be confidential and it shall be unlawful for any person to solicit, disclose, receive, make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of applications or client case records or the information contained therein for any purpose not directly connected with the administration of the Family Services program.

B. Publication of lists of names of clients or applicants is prohibited.

C. The following information shall not be subject to waiver, and shall not be released to applicants, recipients, or outside sources, except those outside sources engaged in the administration of the Family Services program:

1. records pertaining to foster care of children, investigations of abuse or neglect of children, and other child welfare services;

2. information furnished to the Division of Family Services by persons, governmental agencies, or other legal entities when such furnisher of information is subject to a confidentiality statute or regulation which prohibits release of such information to an outside source. For this provision to be applicable the limitations of the furnisher's confidentiality statute should be indicated on the material;

3. information in case records pertaining to the Food Stamp Program except that state agencies may make

available upon request to any federal, state or local law enforcement officer, the address, social security number, and (if available) photograph of a food stamp recipient if the officer furnishes the recipient's name and notifies the agency that the individual is fleeing to avoid prosecution, custody, or confinement for a felony, is violating a condition of parole or probation, or has information necessary for the officer to conduct an official duty related to a felony/parole violation.

4. information contained in applications for assistance and case records that is furnished to all enforcement agencies or courts to aid in the prosecution of criminal offenses related to any Family Services program;

5. information pertaining to adoption of children shall be strictly confidential and shall only be released to courts of competent jurisdiction in accordance with existing laws;

6. information pertaining to foster care of children, reports and investigations on abuse or neglect of children, and records of other child welfare services, shall not be subject to subpoena in any judicial proceeding for legal separation, for divorce, or for custody of children incidental to a proceeding for legal separation or divorce, and in the event of the issuance of a subpoena for such information, or for any representative or employee of the Louisiana Health and Human Resources Administration to testify concerning an applicant or client in any such proceeding, the court's attention shall be called to this.

D. Confidential information may be released to an outside source, not directly connected with the administration of Family Services programs, only upon written request of the outside source and only after written waiver by the applicant, client, or his legal representative, governmental authorities, the courts, and law enforcement agencies shall be considered the same as any other outside source. Confidential information may be released to an applicant, client, or his legal representative, provided that the applicant, client, or legal representative will be required to complete and sign a written waiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:65, 7 CFR 273.2; P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Health and Human Resources Administration, Division of Family Services, LR 2:36 (January 1976), amended by the Department of Social Services, Office of Family Support, LR 23:79 (January 1997).

# Chapter 2. Voter Registration Services

### §201. Voter Registration by Mail

A. The Office of Family Support as administrator of the Food Stamp and the Family Independence Temporary Assistance Program Programs is a designated voter registration agency.

B. In accordance with the guidelines of federal and state voter registration acts, parish offices shall provide to applicants and participants of these programs the opportunity to register to vote by providing the mail voter registration application form, and making available assistance to complete the application process unless an applicant refuses such assistance.

C. Parish offices shall accept and mail, or otherwise submit, state voter registration forms to their appropriate registrar of voters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:116 and P.L. 103-31.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 20:1365 (December 1994), LR 21:273 (March 1995), amended LR 21:958 (September 1995).

# Chapter 3. Hearings

### §301. Definitions

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

*Administrative Disqualification Hearing***C**is an administrative hearing to determine if an intentional program violation occurred.

*Administrative Law Judge (ALJ)***C**is an impartial individual responsible for conducting a Fair Hearing and issuing a recommended or final decision on the issues in question.

*Advance Notice***C**is notice informing the client of a proposed adverse action and the date that the future action will be taken.

*Advance Notice Period***C**is the period from the date of the notice to the date the proposed action is to be taken.

*Adverse Notice***C**is any written notice informing the client of any agency action which unfavorably affects his case and when that action is effective.

*Agency***C**is any operating unit of the Office of Family Support such as local, regional, or state offices.

*Agency Conference***C**is a meeting between the claimant and the agency where a supervisor or administrator explains the action that is being appealed. It may be conducted by telephone if the claimant agrees. The examiner/case manager/specialist may participate if the supervisor deems this appropriate and the claimant is in agreement.

*Appeal Decision***C**is an official report which contains the substance of what transpired at the hearing and a summary of the case facts, identifies pertinent state or federal regulations and gives the reason for the decision. It is the final written decision of the Department of Social Services (DSS), Bureau of Appeals, on the issue in question.

*Authorized Agent***C**is any person acting on behalf of an applicant/recipient. This may include a friend, relative, attorney, paralegal, legal guardian, conservator, or foster care provider. For Food Stamp purposes, it may also mean an authorized representative or another household member.

*Benefits*—are any kind of assistance, payments or benefits made by the agency for the Family Independence Temporary Assistance Program (FITAP), Family Independence Work Program (FIND Work), Kinship Care Subsidy (KCSP), Refugee Cash Assistance (RCA), Food Stamp, or Child Care Assistance (CCAP) Programs.

*Claimant*—is an applicant or recipient who has requested a hearing.

*Concurrent Notice*—is notice informing the client of an action on his case which is being effected at the time the notice is given. The client is also informed of his right to request a Fair Hearing within an appropriate time-period.

*Date of Action*—is the intended date on which a termination, suspension, or reduction of benefits becomes effective.

*Directive*—is a written communication from the Bureau of Appeals to the agency giving specific instructions to be taken as a result of a hearing. This action shall be taken within 10 days and reported to the Bureau of Appeals within 14 days of the receipt of the directive.

*Fair Hearing*—is an administrative procedure during which a claimant (or a group of claimants) or his (or their) authorized agent may present a grievance and show why it is believed the agency action, proposed action, or inaction is not fair and should be corrected. A Fair Hearing meets the due process requirements set forth in the U.S. Supreme Court decision in Goldberg vs. Kelly.

*Official Hearing Record*—consists of a verbatim transcript or an official report summarizing what transpired at the hearing, all evidence and other material introduced at the hearing, the recommendations of the Administrative Law Judge, and the directive, if issued.

*Public Assistance Household*—is a food stamp household in which all members receive FITAP, KCSP, RCA, or federal Supplemental Security Income

*Request for a Fair Hearing*—is any clear expression (oral or written) by the claimant or his authorized agent that he wants to appeal an agency decision to a higher authority.

*Subpoena*—is an order commanding that a designated person or document be present at a Fair Hearing.

*Summary of Evidence*—is a document prepared by the agency stating the reason(s) the agency decided to take the action being appealed. Its purpose is to provide the claimant information needed to prepare his case for the hearing.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:689 (July 1985), amended by Department of Social Services, Office of Family Support, LR 25:2259 (November 1999), LR 26:350 (February 2000).

### §303. General Rules and Principles

A. The DSS Bureau of Appeals is responsible for providing a system of hearings which must meet the due process standards set forth in Federal Regulations, State laws, and Goldberg vs. Kelly 397 US 245 (1970).

B. Each applicant is informed by the application form and by the appropriate notification forms (as decisions are made affecting his case) of his right to a hearing, of the method by which a hearing may be requested, and who may present his case. Detailed information concerning the Fair Hearing procedure is contained in the Fair Hearing Pamphlet, Form OFS 5F, which is provided by the DSS Bureau of Appeals when a Fair Hearing is requested.

C. The claimant may represent himself at the hearing or be represented by any authorized agent.

D. Minimum procedural safeguards necessary to accomplish the purpose of a Fair Hearing are:

1. a notice explaining the reason for the action and citing the policy reference;

2. an opportunity to defend by confronting adverse witnesses;

3. an opportunity to present arguments and evidence orally;

4. an opportunity to appear with counsel;

5. an impartial Administrative Law Judge;

6. a decision based solely on the legal rules and the evidence offered as proof at the hearing or obtained subsequent to the hearing; and

7. a statement explaining the reasons for the decision of the Administrative Law Judge and indicating the evidence on which the decision is based.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2260 (November 1999).

### §305. Right to Request a Fair Hearing

A. Every applicant/recipient who believes he has been unjustly treated regarding benefits or services under any program administered by the Office of Family Support may request a Fair Hearing.

B. The DSS Bureau of Appeals has the right to deny a request for a Fair Hearing when:

1. the request is outside of the jurisdiction of the DSS Bureau of Appeals;

2. the request for a hearing is made after the time limit has expired; or,

3. the sole issue is one of state or federal law or regulation requiring automatic adjustment in benefits for classes of recipients.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2260 (November 1999).

### §307. Time Limits for Requesting a Fair Hearing

A.1. When a decision is made on a case, the client is notified and is allowed the following number of days from the date of the notice to request a Fair Hearing.

| | |
|---|---|
| FITAP | 30 days |
| FIND Work Program | 30 days |
| Kinship Care Subsidy Program | 30 days |
| Child Care Assistance | 30 days |
| Refugee Cash Assistance | 30 days |
| Food Stamps | 90 days |

2. The client may appeal at any time during a certification period for a dispute of the current level of benefits.

B. An appeal is timely requested if the appeal request:

1. is delivered on or before the due date; or,

2. mailed on or before the due date. If the appeal request is received by mail on the first working day following the due date, there shall be a rebuttable presumption that the appeal was timely filed. In all cases where the presumption does not apply, the timeliness of the mailing shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. For purposes of this Section, "by mail" applies only to the United States Postal Service.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2260 (November 1999), LR 26:350 (February 2000).

### §309. Time Limits for Decisions to be Rendered

A. A prompt, definitive and final decision must be provided within the number of days from the date of the Fair Hearing request as listed below:

| | |
|---|---|
| FITAP | 90 days |
| FIND Work Program | 90 days |
| Kinship Care Subsidy Program | 90 days |
| Child Care Assistance | 90 days |
| Refugee Cash Assistance | 90 days |
| Food Stamps | 60 days* |

*or 90 days for Public Assistance households simultaneously appealing the same issue in Public Assistance and Food Stamp cases.

B. If the hearing is delayed at the request of the claimant or his authorized agent, the time limit for the rendering of a decision is extended for as many days as the hearing is delayed. However, the hearing cannot be delayed more than 30 days without good cause.

C. Limits for rendering a decision may be extended when the client wishes to present additional evidence. The limits are extended for the number of days it takes the client to submit the evidence.

D. Failure to meet the time limits in this section shall have no effect on the validity of the decision.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2261 (November 1999), amended LR 26:351 (February 2000).

### §311. Expedited Food Stamp Hearings

A. The DSS Bureau of Appeals and the agency must expedite hearing decisions for Food Stamp households that plan to move from the jurisdiction of the hearing official before the hearing decision would normally be reached. Hearing requests from these households shall be expedited if necessary to enable them to receive a decision before they leave the area.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2261 (November 1999).

### §313. Continuation of Benefits

A. Recipients in all categories, except FIND Work and Child Care Assistance, who request a Fair Hearing prior to the expiration of the Advance Notice of Adverse Action or within 13-days of the date of Concurrent Notice must have benefits continued at, or reinstated to, the benefit level of the previous month, unless:

1. the recipient indicates he does not want benefits continued;

2. a determination is made at the hearing that the sole issue is one of existing or changing state or federal law; or,

3. a change unrelated to the appeal issue affecting the client's eligibility occurs while the hearing decision is pending and the client fails to request a hearing after receiving the notice of change.

B. Benefits will continue at the prior level until the end of the certification period or until the resolution of the hearing, whichever is first. Such benefits are subject to recovery by the agency if the action is upheld.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2261 (November 1999).

### §315. Client Rights

A. The claimant or his authorized agent has the right to:

1. Agency assistance in filing and preparing his request or an explanation of how to file an appeal.

2. Specific case record documents or applicable policy necessary to determine whether a hearing should be requested and/or the documents or policy necessary to prepare for a hearing. This is provided upon request and without charge.

3. Information about, and referral to, available community legal services.

4. A verbal explanation of the hearing procedures in the appropriate language if the individual making the request does not speak English.

5. Review the case record. Upon request and at a reasonable time before the hearing, the claimant and/or his authorized agent must be allowed to review the claimant's case record or any documents to be used by the agency at the hearing in the presence of an agency representative.

a. Confidential records, including confidential medical records, must be withheld unless the records were used as the basis for the determination which is being appealed.

b. The client must provide written permission before anyone other than the client is allowed to view the case record.

6. Present his case himself or with the aid of others, including legal representation.

7. Request that a subpoena be issued. The DSS Bureau of Appeals will evaluate such requests and authorize the agency to serve the subpoena if appropriate.

8. Request a postponement prior to the hearing. The DSS Bureau of Appeals will decide if a postponement is to be granted based upon good cause. Regardless of good cause, requests for rescheduling an initial hearing for a Food Stamp appeal will be granted.

9. Submit evidence and bring witnesses to the hearing. The claimant has the right to advance arguments without undue interference and to question or refute any testimony or evidence, including the right to confront and cross examine witnesses.

10. Request a rescheduled hearing after failing to appear at the hearing. The DSS Bureau of Appeals will evaluate the requests to determine if good cause exists.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2261 (November 1999).

### §317. Responsibility of DSS Bureau of Appeals When a Fair Hearing is Requested

A. The Bureau of Appeals has the sole responsibility for accepting or rejecting all requests for a Fair Hearing.

B. The Bureau of Appeals must acknowledge Fair Hearing requests made directly to that office by or for a claimant, or requests submitted by the agency. All requests must be denied or accepted in writing. The agency will receive appropriate notification.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999).

### §319. Scheduling

A. The Bureau of Appeals will schedule all Fair Hearings. The claimant, his authorized agent, and the agency will be notified at least ten days in advance of the time, place and date of the hearing. Hearings will be scheduled during regular working hours and will normally be set in the agency office, unless there are reasons for scheduling in another location.

B. Any hearing which is required or permitted hereunder may be conducted utilizing remote telephonic communications if the record reflects that all parties have consented to conducting the hearing by use of such communications and that such procedure will not jeopardize the rights of any party to the hearing. A face-to-face hearing will be conducted if requested by the appellant.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999).

### §321. Providing a Summary of Evidence to the Client

A. The Bureau of Appeals will provide a copy of the Summary of Evidence to the claimant or to his authorized agent with the notice for scheduling the Fair Hearing.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999).

### §323. Withdrawals

A. The claimant may withdraw his request for a fair hearing at any time prior to the hearing. The Bureau of Appeals must send written notice to the client, the client's representative and the agency confirming the withdrawal.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999).

### §325. Dismissal of a Request for a Fair Hearing

A. A Fair Hearing request which is accepted by the Bureau of Appeals may be disposed of without a hearing and without a decision only when:

1. the request for a Fair Hearing is withdrawn, or

2. the claimant abandons his request for a hearing. If the claimant or his authorized agent fails to appear for a hearing and has made no contact with the agency or the Bureau of Appeals, the request for a Fair Hearing will be considered abandoned. If he later requests to reschedule, the request will be evaluated for good cause.

3. the issue is settled in the claimant's favor by the agency.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999).

**§327. Group Hearings**

A. When an agency policy or regulation is the sole issue, the Bureau of Appeals may schedule a single group hearing to respond to a series of individual requests. Regulations governing individual Fair Hearings are followed. Each individual claimant must be permitted to present his case or be represented by an authorized agent. If a group hearing is arranged, an individual claimant must be given the right to withdraw from the group hearing in favor of an individual hearing.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999).

**§329. Attendance**

A. Only persons directly concerned are permitted to attend the hearing. The claimant may be accompanied or represented by anyone he believes necessary or desirable to support his claim, including legal counsel if he so desires.

B. Appropriate agency representatives and service providers are required to attend the hearing.

C. The Administrative Law Judge has the authority to limit the number of persons in attendance.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999).

**§331. Hearing Official**

A. Hearings shall be conducted by an impartial official(s) who:

1. does not have a personal involvement in the case;

2. was not directly involved in the initial determination of the action which is being contested; and

3. was not the immediate supervisor of the eligibility worker who took the action.

B. The hearing official shall be:

1. an employee of the Department of Social Services; or

2. an individual under contract with the Department of Social Services.

C. The hearing official shall:

1. administer oaths or affirmations;

2. insure that all relevant issues are considered;

3. request, receive and make part of the record all evidence determined necessary to decide the issues;

4. regulate the conduct and course of the hearing consistent with due process to insure an orderly hearing;

5. order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the Department of Social Services;

6. provide a hearing record and recommendation for final decision by the hearing authority; or, if the hearing official is the hearing authority, render a hearing decision in the name of the Department of Social Services which will resolve the dispute.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2262 (November 1999).

**§333. Hearing Authority**

A. The hearing authority shall be the person designated to render the final administrative decision in a hearing.

B. Decisions of the hearing authority shall comply with State and Federal law and regulations and shall be based on the hearing record.

C. A decision by the hearing authority shall be binding on the Department of Social Services and shall summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and the pertinent State or Federal regulations. The decision shall become a part of the record. The household shall be notified in writing of the:

1. decision;

2. reasons for the decision;

3. available appeal rights; and

4. right to pursue judicial review of the decision.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2263 (November 1999).

# Chapter 4. Electronics Benefits Issuance System

**§401. Electronic Benefits Transfer (EBT)**

A. The Office of Family Support intends to implement an electronic benefits system which will provide FITAP cash grants and/or Food Stamp Program benefits to eligible individuals and households. OFS will pilot the system in Natchitoches Parish prior to statewide implementation. EBT will be the method of delivery of FITAP and Food Stamp benefits in the pilot area and in each subsequent parish into which the system expands, subject only to such exceptions as shall be necessary for the effective functioning of the programs.

B. The EBT system will expand beyond the pilot parish in the following manner:

1. Phase 1 consists of the parishes of Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Sabine,

Winn, East and West Baton Rouge, East and West Feliciana, Livingston, St. Helena, and Tangipahoa.

2. Phase 2 consists of the parish of Orleans (five district offices).

3. Phase 3 includes the parishes of Jefferson, Plaquemines, St. Bernard, St. Tammany and Washington.

4. Phase 4 consists of the parishes of Ascension, Assumption, Iberville, Lafourche, St. Charles, St. James, St. John the Baptist, St. Mary, Terrebonne, Iberia, Pointe Coupee, St. Landry and St. Martin.

5. Phase 5 consists of the parishes of Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Lafayette, Vermilion and Vernon.

6. Phase 6 consists of the parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Red River, Webster, Caldwell, East and West Carroll, Franklin, Jackson, Madison, Morehouse, Ouachita, Richland, Tensas and Union.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:450.1, 7 CFR 274.12 and 45 CFR 95(F).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:1231 (December 1996), amended LR 23:869 (July 1997).

### §402. Delivery of Benefits

A. FITAP and Food Stamp Program benefits shall be delivered through EBT in staggered cycles to ongoing households beginning on the first day of each month. The last digit of the Social Security number determines the date that benefits are issued. FITAP benefits will be available within the first five days of each month. Food stamp benefits will be available within the first 14 days of each month. Food stamp cases that contain elderly or disabled persons will have benefits available during the first four days of each month. Other issuance authorizations will be posted to the EBT account the day after they are authorized.

B. Benefits are delivered in this manner for households certified on an ongoing basis. Benefits can accumulate but are accounted for according to the month of availability and will be withdrawn on a first-in-first-out basis. Each month's benefits with no activity by the client for a period of 90 days from the date of availability will be moved to dormant status and the case may be closed. These benefits can be returned to active status at the local Office of Family Support offices upon request of the head of household. Benefits that remain in dormant status for a period of 270 days will be expunged and will not be available to the household after expungement. FITAP benefits which have been expunged may be reauthorized for availability if the recipient has good cause for not having accessed them during the original availability period.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 272.3(c)(1)(ii) and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1322 (July 1998).

### §403. Participation of Retailers Effective October 1, 1997

A. Retail establishments which are U.S. Department of Agriculture, Food and Consumer Service authorized food stamp benefit redemption points must be allowed the opportunity to participate in the state EBT system. All other retail establishments must be approved by the agency in order to participate in the cash access component of the system. Retailers approved by the agency to participate in cash access may be charged connection fees and/or monthly lease fees for electronic and telephone equipment lines necessary to establish connection to the EBT System.

B. Retail establishments found guilty of abuse, misuse or fraud of the system by using the EBT "Louisiana Purchase" card in a manner or intent contrary to the purpose of the card, in providing benefits to eligible recipients, shall be permanently disqualified from participating as a cash redemption point and shall have all equipment provided by the vendor disconnected and removed from the establishment after due process.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:106 (January 1998).

### §405. Service Fees Effective October 1, 1997

A. Recipients of cash assistance may be charged fees for accessing cash only benefits. Retailers may charge their usual and customary check cashing fee for providing cash only benefits to FITAP recipients under the following circumstances:

1. the recipient presents a valid EBT system card (known as the "Louisiana Purchase Automated Benefit Card"); and

2. the recipient is not using the card to obtain cash in conjunction with the purchase of goods or services through the EBT system.

B. Retailers may process cash transactions through the EBT system only while the system is available. Retailers shall not dispense cash to recipients using vouchers or other means of implied payment to the retailer.

C. Retailers are prohibited from recovering losses through the EBT system due to their errors that are discovered after the transaction is completed and the recipient has left the place of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:450.1(C)(3), R.S. 46:231.13, R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support in LR 24:107 (January 1998).

### §407. Participation of Approved Prepared-meal Facilities

A. Facilities providing prepared meals that are authorized by the United States Department of Agriculture, Food and Nutrition Service and, in some instances, the

agency, to accept food stamp benefits for prepared meals may be authorized redemption points using the EBT card. Participating facilities are subject to all applicable regulations of this provision. If found guilty of abuse, misuse or fraud by using the EBT card or benefits in a manner or intent contrary to the purpose of the Food Stamp Program, a facility may be permanently disqualified from participation and have all equipment provided by the vendor disconnected and removed from the facility after due process.

1. A facility must maintain confidentiality in accordance with Food Stamp Program rule by requiring privacy when accepting payments or payment/contributions from recipients.

2. Settlement of funds to a facility will be made electronically as a direct deposit to the financial institution selected by the facility.

3. A facility must sign a contract with the agency's EBT vendor and be certified to the vendor's system prior to participation.

B. Types of Facilities

1. Duly authorized non-residential facilities such as communal dining facilities or Meals-on-Wheels may accept food stamp benefits for single meals.

2. Duly authorized residential facilities such as homeless shelters or battered women's shelters may accept food stamp benefits for multiple meals or ongoing food maintenance. Such establishments may accept food stamp payments or contributions not to exceed the biweekly rate of the facility. This requirement will ensure that recipients have adequate benefits remaining in their accounts upon departure from the establishment.

C. A facility with redemption of food stamp benefits of $100 or more per month will be provided a Point-Of-Sale (POS) terminal to enable acceptance of the EBT card. A facility with redemption of less than $100 per month will utilize paper voucher authorizations for the acceptance of food stamp benefits.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 282.1(a).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1322 (July 1998).

# Chapter 5. Computer Matching

### §501. Due Process

Due process will be provided to applicants for and recipients of benefits in the Food Stamp, Family Independence Temporary Assistance Program, and Refugee Cash Assistance programs who are subject to computer matches.

1. Any adverse information developed in a computer match must be subjected to investigation and verification before action is taken.

2. Recipients may not have their benefits suspended or reduced based on the information received in a computer match until the expiration of a 30-day adverse notice period. If an individual contacts the agency within the notice period and indicates acceptance of the validity of the adverse information, the agency may take immediate action to deny or terminate. The agency may also take action if the period expires without contact.

AUTHORITY NOTE: Promulgated in accordance with P.L. 100-503 and 7CFR 273.13.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:321 (April 1990).

# Chapter 7. Statewide Income and Eligibility Verification System (SIEVS)

### §701. SIEVS Program

Effective September 30, 1986, the Office of Family Security will implement the Statewide Income and Eligibility Verification System (SIEVS). The Social Security numbers of applicants for and recipients of benefits and services through the Assistance Payments, Food Stamps, and Medical Assistance Programs will be submitted to SIEVS at application and at regular periods thereafter. SIEVS will perform computer matching to obtain information from the Social Security Administration, the Internal Revenue Service, and the Louisiana Department of Labor. SIEVS will receive information regarding income and resources from these agencies, and will produce reports for OFS eligibility workers. The eligibility workers will use the information to determine whether applicants and recipients have reported correctly and whether eligibility and benefit level have been determined correctly.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:7178 et seq. and 7CFR 273.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:599 (September 1986).

# Chapter 8.General Administrative Procedures

### §801. Implementation of Regulations

A. Because of the nature of the eligibility programs administered by the agency, rules promulgated by the Office of Family Support are effective the first of the month following the publication of the final rule, unless otherwise stated within the rule.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2263 (November 1999).

# Title 67
# SOCIAL SERVICES
## Part III. Family Support
## Subpart 2. Family Independence Temporary Assistance Program

## Chapter 9. Administration

### §901. Authority

A The Family Independence Temporary Assistance Program (FITAP) has been established in accordance with applicable federal and state laws.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231 and R.S. 36:474.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:1226 (December 1991), amended LR 23:1707 (December 1997).

### §902. State Plan

A. The Title IV-A State Plan as it existed on October 1, 1996 is hereby adopted to the extent that its provisions are not in conflict with any Emergency or normal Rules adopted or implemented on or after October 1, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474, R.S. 46:233 and P.L. 104-193.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:448 (April 1997).

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

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

### §1201. Application Date

A. All individuals applying for FITAP shall be considered applicants for assistance and shall file a written and signed application form under penalty of perjury. The date the application form is received in the parish office shall be considered the date of application. If determined eligible, benefits shall be prorated from the date of application.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2446 (December 1999).

### §1203. Standard Filing Unit

A. The mandatory filing unit includes the child, the child's siblings (including half and step-siblings) and the parents (including legal stepparents) of any of these children living in the home. In the case of the child of a minor parent, the filing unit shall include the child, the minor parent, the minor parent's siblings (including half and step) and the parents of any of these children living in the home. Supplemental Security Income (SSI) recipients and children receiving Kinship Care Subsidy Payments may not be included in the filing unit.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), amended LR 26:349 (February 2000).

### §1205. Application Time Limit

A. The time within which the worker shall dispose of the application is limited to within 30 days from the date on which the signed application is received in the local office. The applicant shall have benefits available through Electronic Benefits Transfer (EBT), be mailed his first payment or notified that he has been found ineligible for a grant by the 30th day, unless an unavoidable delay has occurred.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999).

### §1207. Certification Period and Reapplication

A. Certification periods of a set duration will be assigned. In order to continue to receive benefits, the household must timely reapply and be determined eligible. If the payee fails, without good cause, to keep a scheduled appointment, the case will be closed without further notification. Also, if during the application process, a change is reported which results in a determination of ineligibility or a reduction in benefits, this change will be made effective the following month.

B. The Office of Family Support will require an official reapplication for benefits and prorate benefits from the date of application following a period of ineligibility.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999).

### §1209. Notices of Adverse Actions

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

1. the agency has factual information confirming the death of the FITAP payee:

2. the client signs a statement requesting reduction or closure and waiving the right to advance notice;

3. the client's whereabouts are unknown and agency mail directed to the client has been returned by the Post Office indicating no known forwarding address;

4. a client has been certified in another state and that fact has been established;

5. a child is removed from the home as a result of a judicial determination, or is voluntarily placed in foster care by his legal guardian;

6. the client has been admitted or committed to an institution;

7. the client has been placed in a skilled or intermediate nursing care facility or long-term hospitalization;

8. the agency disqualifies a household member because of an Intentional Program Violation and the benefits of the remaining household members are reduced or terminated because of the disqualification;

9. the worker reduces or ends benefits at the end of a normal period of certification when the client timely reapplies;

10. a case is closed effective the fourth month because a parent fails to comply, attain good cause or become exempt from FIND Work during the three-month sanction period imposed when the parent first failed to cooperate with the FIND Work Program;

11. a case is closed effective the fourth month because a parent or other qualified relative fails to participate without good cause in the FITAP Drug Testing Program during the three-month sanction period imposed when the parent first failed to cooperate in the Drug Testing Program;

12. the case is closed due to the amount of child support collected through Support Enforcement Services;

13. the client has been certified for Supplemental Security Income and that fact has been established;

14. the child is certified for Kinship Care Subsidy Payments.

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

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

### §1211. Minimum Payments

A. FITAP grant payments in an amount of less than $10 will be prohibited.

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

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

### §1213. Domestic Violence

A. The secretary shall waive, for as long as necessary, pursuant to a determination of good cause, any public assistance program requirement that will create obstacles for a victim of domestic violence to escape a domestic violence situation, including but not limited to, time limits on receipt of assistance; work, training, or educational requirements; limitations on TANF assistance to noncitizens; child support or paternity establishment cooperation requirements; residency requirements; and any other program requirements which will create obstacles for such victim to escape violence or penalize that victim for past, present, and potential for abuse.

B. Any information obtained pursuant to this Section regarding a victim of domestic violence shall be used solely for the purposes provided for in this Section or for referral to supportive services and shall not be released to any third party, including a governmental agency, unless such agency is authorized to obtain such information by another provision of law.

C. Individuals who allege domestic violence should submit any available evidence to substantiate their claim. If the individual alleging to be a victim of domestic violence is unable to provide documentation to substantiate the claim, the client's statement may be accepted unless there is a reasonable basis to doubt the statement. The worker must continue to attempt to secure the documentation as it becomes available. The documentation may include, but is not limited to:

1. police, government agency or court records;

2. documentation from a shelter worker, legal professional, member of the clergy, medical professional, or other professional from whom the individual has sought assistance in dealing with domestic violence;

3. other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances which provide the basis for the claim;

4. physical evidence of domestic violence; or

5. other evidence which supports the statement.

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

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

## Subchapter B. Conditions of Eligibility

### §1221. Age Limit

A. A dependent child must be:

1. under 16 years of age, or

2. sixteen to 19 years of age either in school and working toward a high school diploma, GED, or special education certificate or participating in the FIND Work Program.

B. Unborn children are not eligible for FITAP.

C. A pregnant woman who has completed fifth month of pregnancy may be certified if otherwise eligible (unborn is not eligible).

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.2.

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

**§1223. Citizenship**

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

1. an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;

2. an alien who is granted asylum under Section 208 of such Act;

3. a refugee who is admitted to the United States under Section 207 of such Act;

4. an alien who is paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year;

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

6. an alien who is granted conditional entry pursuant to §203(a)(7) of such Act as in effect prior to April 1, 1980; or

7. an alien who is a *Cuban* or *Haitian* entrant, as defined in §501(e) of the Refugee Education Assistance Act of 1980;

8. an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien if the spouse or parent consented to, or acquiesced in, such battery or cruelty. The individual who has been battered or subjected to extreme cruelty must no longer reside in the same household with the individual who committed the battery or cruelty. The agency must also determine that a substantial connection exists between such battery or cruelty and the need for the benefits to be provided. The alien must have been approved or have a petition pending which contains evidence sufficient to establish:

a. the status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of §204(a)(1)(A) of the Immigration and Nationality Act (INA); or

b. the classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA, or

c. the suspension of deportation and adjustment of status pursuant to §244(a)(3) of the INA; or

d. the status as a spouse or child of a United States citizen pursuant to clause (i) of §204(a)(1)(A) of the INA, or classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA.

9. an alien child of a battered parent or the alien parent of a battered child as described in 8 above.

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

1. the alien is admitted to the United States as a refugee under Section 207 of the Immigration and Nationality Act;

2. the alien is granted asylum under Section 208 of such Act;

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

4. the alien is a *Cuban* or *Haitian* entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;

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

6. the alien is lawfully residing in the United States and is a *veteran* (as defined in Sections 101, 1101, or 1301, or as described in §107 of Title 38, *United States Code*) who is honorably discharged for reasons other than alienage and who fulfills the minimum active-duty service requirements of §5303A(d) of Title 38, *United States Code*, his spouse or the unremarried surviving spouse if the marriage fulfills the requirements of 1304 of Title 38, *United States Code*, and unmarried dependent children; or,

7. the alien is lawfully residing in the United States and is on active duty (other than for training) in the Armed Forces and his spouse or the unremarried surviving spouse if the marriage fulfills the requirements of §1304 of Title 38, *United States Code* and unmarried dependent children.

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

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

**§1225. Enumeration**

A. Each applicant for, or recipient of, FITAP is required to furnish a Social Security number or to apply for a Social Security number if such number has not been issued or is not known.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), LR 26:1342 (June 2000).

**§1227. Living in the Home of a Qualified Relative**

A. A child must reside in the home of a parent or other qualified relative who is responsible for the day to day care of the child. Benefits will not be denied when the qualified relative or the child is temporarily out of the home. Good cause must be established for a temporary absence of more than 45 days. The following relatives are qualified relatives:

1. grandfather or grandmother (extends to great-great-great);

2. brother or sister (including half-brother and half-sister);

3. uncle or aunt (extends to great-great);

4. first cousin (including first cousin once removed);

5. nephew or niece (extends to great-great);

6. stepfather or stepmother;

7. stepbrother or stepsister.

These may be either biological or adoptive relatives.

B. Eligibility for assistance for minor unmarried parents shall require that the individual and dependent child reside in the residence of the individual's parent, legal guardian, other relative, or in a foster home, maternity home or other adult-supervised supportive living arrangement, and that where possible, aid shall be provided to the parent, legal guardian or other adult relative on behalf of the individual and dependent. The following exceptions apply.

1. The minor parent has no parent or guardian (of his or her own) who is living and whose whereabouts are known;

2. No living parent or legal guardian allows the minor parent to live in his/her home;

3. The minor parent lived apart from his/her own parent or legal guardian for a period of at least one year before the birth of the dependent child or the parent's having made application for FITAP;

4. The physical or emotional health or safety of the minor parent or dependent child would be jeopardized if he/she resided in the same household with the parent or legal guardian;

5. There is otherwise good cause for the minor parent and dependent child to receive assistance while living apart from the minor parent's parent, legal guardian or other adult relative, or an adult-supervised supportive living arrangement.

C. Essential persons are individuals who may be included in the FITAP grant and are defined as follows:

1. a person providing child care which enables the qualified relative to work full-time outside the home;

2. a person providing full-time care for an incapacitated family member living in the home;

3. a person providing child care that enables the qualified relative to receive full-time training;

4. a person providing child care that enables a qualified relative to attend high school or General Education Development (GED) classes full-time;

5. a person providing child care for a period not to exceed two months that enables a caretaker relative to participate in employment search or another FITAP work program;

6. children not within the degree of relationship to be FITAP eligible who live in the home and who meet all other FITAP requirements.

D. The following group of persons who had been considered as essential persons are no longer eligible for inclusion in the assistance unit: the incapacitated nonlegal spouse of a qualified relative who is unrelated to anyone in the assistance unit.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999).

**§1229. Income**

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining eligibility and payment amounts except income from:

1. adoption assistance;

2. earned income of a child, including a minor unmarried parent, who is in school and working toward a high school diploma, GED, or special education certificate;

3. disaster payments;

4. Domestic Volunteer Service Act;

5. Earned Income Credits (EIC);

6. education assistance;

7. energy assistance;

8. foster care payments;

9. monetary gifts up to $30 per calendar quarter;

10. Agent Orange Settlement payments;

11. HUD payments or subsidies other than those paid as wages or stipends under the HUD Family Investment Centers Program;

12. income in-kind;

13. Indian and Native Claims and Lands;

14. irregular and unpredictable sources;

15. lump sum payments;

16. nutrition programs;

17. job training income that is not earned;

18. relocation assistance;

19. a bona fide loan which is considered bona fide if the client is legally obligated or intends to repay the loan;

20. Supplemental Security Income;

21. Wartime Relocation of Civilians Payments;

22. Developmental Disability Payments;

23. Delta Service Corps post-service benefits paid to participants upon completion of the term of service if the benefits are used as intended for higher education, repayment of a student loan, or for closing costs or down payment on a home;

24. Americorps VISTA payments to participants (unless the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage);

25. Radiation Exposure Compensation Payments;

26. payment to victims of Nazi persecution; or

27. restricted income received for a person not in the assistance unit or not in the income unit. Restricted income is income which is designated specifically for a person's use by federal statute or court order and may include RSDI, VA benefits and court ordered-support payments.

28. crime victim compensation program payments to an applicant/recipient whose assistance is necessary, in full or in part, because of the commission of a crime against the applicant, and to the extent it is sufficient to fully compensate the applicant for losses suffered as a result of the crime.

B. Need Standards. The FITAP need standards are as follows:

| Size of Household | Current Need Standard |
|---|---|
| 1 | $ 245.00 |
| 2 | 472.00 |
| 3 | 658.00 |
| 4 | 809.00 |
| 5 | 955.00 |
| 6 | 1,089.00 |
| 7 | 1,217.00 |
| 8 | 1,347.00 |
| 9 | 1,471.00 |
| 10 | 1,595.00 |
| 11 | 1,731.00 |
| 12 | 1,870.00 |
| 13 | 2,005.00 |
| 14 | 2,146.00 |
| 15 | 2,291.00 |
| 16 | 2,444.00 |
| 17 | 2,564.00 |
| 18 | 2,727.00 |

2. To determine the need standard amount for households exceeding 18 persons, the need standard amount for the number in excess of 18 shall be added to the need standard amount for 18 persons.

C. Earned Income Deductions. Each individual in the income unit who has earned income is entitled to a standard deduction, a $900 time-limited deduction and, in certain circumstances, to a deduction for dependent care. The following deductions are applied, and no other deductions are allowed:

1. Standard Deduction. The standard deduction is $120.

2. $900 Time-limited Deduction. This deduction is applied for six months when a recipient's earnings exceed the $120 standard deduction. The months need not be consecutive nor within the same certification periods. The deduction is applicable for a six month lifetime limit for the individual.

3. Dependent Care. Recipients may be entitled to a deduction for dependent care for an incapacitated adult, or for a child age 13 or older who is not physically or mentally incapacitated or under court supervision.

D. Flat Grant Amounts

| Number of Persons | Flat Grant Amount |
|---|---|
| 1 | $ 122 |
| 2 | 188 |
| 3 | 240 |
| 4 | 284 |
| 5 | 327 |
| 6 | 366 |
| 7 | 402 |
| 8 | 441 |
| 9 | 477 |
| 10 | 512 |
| 11 | 551 |
| 12 | 590 |
| 13 | 630 |
| 14 | 670 |
| 15 | 712 |
| 16 | 757 |
| 17 | 791 |
| 18 | 839 |
| 18+ | See Note 1 |

Note 1: To determine the amount for households exceeding 18 persons, add the flat grant amount for the number in excess of 18 to the flat grant amount for 18 persons and subtract $50.

E. Payment Amount. The budgetary deficit is the amount remaining after subtracting applicable income from the total assistance needs (flat grant amount). Round down to the next lower dollar of the budgetary deficit to determine the payment amount. Prorate the initial assistance payment from the date of application if otherwise eligible.

F. Income and Resources of Alien Sponsors

1. In determining the eligibility and benefits of an alien with an affidavit of support executed under 213A of the INA (8 U.S.C. 1183a), the income and resources of the sponsor and the sponsor's spouse shall be considered except as follows in §1229.F.a.-b. This attribution shall continue for the period prescribed in 8 U.S.C. 1631.

a. Indigence Exception. If an alien has been determined indigent, as provided in 8 U.S.C. 1631(e), the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the alien shall not exceed the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date.

b. Special rule for battered spouse and child. If an alien meets the requirements of the special rule for a battered spouse or child, as provided in 8 U.S.C. 1631(f), and subject to the limitations provided therein, the provisions of §1229.F.1. shall not apply during a 12-month period. After a 12-month period, the batterer's income and resources shall not be considered if the alien demonstrates that the battery and cruelty as defined in 8 U.S.C. 1631(f)(1) has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty has, in the Department's opinion, a substantial connection to the need for benefits.

2. The agency has opted not to apply the deeming rule of 42 U.S.C. 608 in determining the eligibility and benefits of non-213A aliens.

G. Income of Alien Parent. When determining eligibility, income of an alien parent who is disqualified is considered available to the otherwise eligible child. The needs and income of disqualified alien siblings are not considered in determining the eligibility of an otherwise eligible dependent child.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), LR 26:1342 (June 2000), LR 26 2831 (December 2000).

**§1231. Immunization**

A. Failure to follow the schedule of immunizations as promulgated by the Louisiana Office of Public Health for any child under 18 years of age, without good cause, shall result in the child's removal from the FITAP grant until the child has received the required immunizations, or in the case of an immunization that requires a series of injections, has begun to receive the injections. No person is required to comply with this provision if that person or his/her parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or his/her parent or guardian objects to the procedure on religious grounds.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.4.

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

**§1233. Residency**

A. FITAP recipients must reside in Louisiana with intent to remain.

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

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

**§1235. Resources**

A. Assets are possessions which a household can convert to cash to meet needs. The maximum resource allowable for an assistance unit is $2,000. All resources are considered except:

1. home property, covered by homestead exemption;

2. burial insurance, prepaid funeral plans or prepaid funeral agreements;

3. one burial plot for each member of the assistance unit;

4. personal property;

5. inaccessible resources;

6. life insurance;

7. livestock used for home produce;

8. trust funds if all of the following conditions are met:

a. the trust arrangement is unlikely to end during the certification period and no household member can revoke the trust agreement or change the name of the beneficiary during the certification period;

b. the trustee of the fund is either a court, institution, corporation, or organization not under the direction or ownership of a household member, or a court-appointed individual who has court-imposed limitations placed on the use of the funds;

c. the trust investments do not directly involve or help any business or corporation under the control, direction, or influence of a household member. Exempt trusts established from the household's own funds if the trustee uses the funds only to make investments on behalf of the trust or to pay the education or medical expenses of the beneficiary;

9. disaster payments;

10. energy assistance payments;

11. Agent Orange Settlement Payments income;

12. Housing and Urban Development (HUD) payments and subsidies including HUD community development block grant funds;

13. Indian and Native Claims and Lands Payments received under Public Laws 92-254, 93-134, 94-540, Section 6 of Public Law 94-114 (89 Stat. 577, 25 U.S.C. 459e), tax-exempt portions made pursuant to Public Law 92-203, the Alaska Native Claims Settlement Act, and Public Law 98-123 or Public Law 98-124;

14. Women, Infants and Children (WIC) Program benefits;

15. relocation assistance;

16. Supplemental Security non-recurring lump sum retroactive payments in the month paid or the following month;

17. Wartime Relocation of Civilians Payments;

18. payments to victims of Nazi persecution;

19. real property which the family is making a good faith effort to sell;

20. vehicles other than recreational vehicles. A recreational vehicle is a vehicle designed for recreational use and not used as ordinary means of transportation;

21. an Individual Development Account (IDA) which is a special account established in a financial institution for the purposes of work-related education or training. Only one IDA per assistance unit is allowed. The amount of the deposits cannot exceed $6000, excluding interest, and the balance of the account cannot exceed $6000, including interest, at any time. Deposits to the account may be made by the recipient, by a nonprofit organization, or by an individual contributor. OFS is not responsible for enforcing stipulations placed on the use of the money by a nonprofit organization or by an individual contributor. IDA funds may be used only for the following purposes:

a. educational expenses incurred at an accredited institution of higher education;

b. training costs incurred for a training program approved by the agency; and

c. payments for work-related expenses such as clothing, tools or equipment approved by the agency;

22. real property which annually produces income consistent with its fair market value, even if only used on a seasonal basis. Such property includes rental homes and vacation homes.

B. Resources of Alien Sponsors - Refer to §1229.F.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2451 (December 1999), amended LR 27:736 (May 2001), LR 27:866 (June 2001).

### §1237. School Attendance

A. At redetermination a school-age child who has missed more than 15 days of school without good cause during the previous six-month period shall be placed in a probationary status. School-age, for purposes of this requirement, is defined as a child who is age 7 through 16. If, however, a child starts school at the kindergarten level before age 7, he is considered to be a school-age child at the point he starts kindergarten. If during the probationary period a child is absent from school for more than 3 days in a given calendar month without good cause, the child's needs shall be removed from the FITAP grant until documentation that the child's attendance meets the requirements is provided.

B. A child age 17 or 18 is eligible to receive assistance if attending school and working toward a high school diploma, GED, or special education certificate, or participating in or exempt from the FIND Work Program.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.3.

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

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

A. Assignment of Support Rights

1. Each applicant for, or recipient of, FITAP is required to assign to the Louisiana Department of Social Services, Office of Family Support, any accrued rights to support for any other person that such applicant or recipient may have, including such rights in his own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving.

2. By accepting FITAP for, or on, behalf of a child or children, the applicant or recipient shall be deemed to have made an assignment to the department of any and all right, title, and interest in any support obligation and arrearage owed to, or for, such child or children or caretaker up to the amount of public assistance money paid for, or on, behalf of such child or children or caretaker for such term of time as such public assistance monies are paid; provided, however, that the department may thereafter continue to collect any outstanding debt created by such assignment which has not been paid by the responsible person. The applicant or recipient shall also be deemed, without the necessity of signing any document, to have appointed the Support Enforcement Services Program administrator as his or her true and lawful attorney-in-fact to act in his or her name, place, and stead to perform the specific act of endorsing any and all drafts, checks, money orders or other negotiable instruments representing support payments which are received on behalf of such child or children or caretaker as reimbursement for the public assistance monies paid to such applicant or recipient.

B. Cooperation with Support Enforcement Services

1. Each applicant for, or recipient of, FITAP is required to cooperate in identifying and locating the parent of a child with respect to whom aid is claimed, establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, obtaining support payments for such applicant or recipient and for a child with respect to whom aid is claimed, and obtaining any other payment or property

due such applicant or recipient unless good cause is established.

2. Good cause exists when:

a. the client's cooperation with Support Enforcement Services is reasonably anticipated to result in physical or emotional harm to the child or caretaker relative which reduces his capacity to care for the child adequately;

b. the child was conceived as a result of incest or rape;

c. legal proceedings for adoption are pending before a court; or

d. the client is being assisted by a licensed or private social agency to resolve the issue of whether to keep the child or relinquish him for adoption. The issue must not have been under discussion more than three months.

3. Failure to cooperate in establishing paternity or obtaining child support will result in denial or termination of cash assistance benefits.

4. Failure to cooperate includes, but is not limited to, the following instances where good reason for failing to cooperate has not been established by the IV-D office:

a. failure to keep two consecutive appointments;

b. failure or refusal to cooperate at an interview;

c. failure to appear for, or cooperate during a court date or genetic testing.

5. The recipient who has failed to cooperate will be notified in writing of the sanctioning. The recipient's desire or intention to cooperate will not preclude case closure.

C. In any case in which child support payments are collected for a recipient of FITAP with respect to whom an assignment is in effect, such amount collected will be counted as income to determine eligibility.

D. Written notice will be provided to the Child Support Enforcement Agency of all relevant information prescribed by that agency within two days of the furnishing of FITAP.

E. Louisiana must have in effect a plan approved under Part D of Title IV of the Social Security Act and operate a child support program in conformity with such plan.

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

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

### §1241. Sanctions for Refusal to Accept a Job

A. Eligibility for FITAP shall be terminated for three months if a parent in the assistance unit declines or refuses the opportunity for full-time employment without good cause. The three month sanction period counts as months of FITAP receipt when applying the 24-month time limit. Assistance is not denied to an incapacitated or disabled individual in an assistance unit/household which is subject to sanction for refusal to accept full-time employment. Assistance for the incapacitated or disabled individual continues as long as the family continues to meet all other FITAP eligibility requirements.

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

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

### §1243. Work Requirements

A. Recipients must meet the work requirements outlined in LAC 67:III.Chapter 29.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.7., 46:231.8., 46:231.9.

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

### §1245. Parenting Skills Education

A. As a condition of eligibility for FITAP benefits any parent under age 20 must attend a parenting skills education program provided by the Office of Family Support or provide proof of attendance of this type of training provided by another recognized agency or source. Failure to meet this requirement without good cause shall result in ineligibility for inclusion in the assistance unit. Ineligibility will continue until compliance is demonstrated.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.5.

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

### §1247. Time Limits

A. The Office of Family Support shall deny FITAP cash benefits to families if the parent has received FITAP for at least 24 months during the prior 60-month period. Only months of FITAP receipt after the January 1, 1997 date of implementation count toward the 24-month limit. Months after June 1999 in which a recipient receives the earned income disregard shall not count toward the twenty-four month limit.

B. The following situations are exceptions to the 24-month time-limit (in two-parent households both parents must meet at least one of these criteria):

1. the parent is incapacitated or disabled;

2. the parent has been actively seeking employment by engaging in job-seeking activities and is unable to find employment;

3. factors relating to job availability are unfavorable;

4. the parent loses his job as a result of factors not related to his job performance;

5. an extension of benefits of up to one year will enable the adult to complete employment-related education or training; or

6. hardships have occurred which affect the parent's ability to obtain employment;

7. the parent is employed and entitled to the $900 disregard.

C. Assistance is not denied to an incapacitated or disabled individual in an assistance unit/household which is subject to the time limitation provisions. Assistance for the incapacitated or disabled individual continues as long as the family continues to meet all other FITAP eligibility requirements.

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

1. the caretaker relative is incapacitated or disabled;

2. the caretaker relative has been actively seeking employment by engaging in job-seeking activities and is unable to find employment;

3. factors relating to job availability are unfavorable;

4. the caretaker relative loses his job as a result of factors not related to his job performance;

5. an extension of benefits of up to one year will enable the adult to complete employment-related education or training; or

6. hardships have occurred which affect the caretaker relative's ability to obtain employment.

E. Any month for which such assistance was provided will be disregarded with respect to the individual, if the individual was:

1. a minor child; and

2. not the head of a household or married to the head of a household..

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.6., R.S. 46:460.5(A)(3).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### §1251. Fleeing Felons and Probation/Parole Violators

A. No cash assistance shall be provided to a person fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the state from which the individual flees. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

B. No cash assistance shall be provided to a person violating a condition of probation or parole imposed under federal or state law. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2454 (December 1999).

### §1253. Strikers

A. FITAP benefits cannot be paid to families in which the caretaker relative or stepparent is participating in a strike on the last day of the month and, if any other member of the household is participating in a strike, his or her needs cannot be considered in computing the FITAP benefits.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2454 (December 1999).

### §1255. Individuals Convicted of a Felony Involving a Controlled Substance

A. An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C. 802[6]) shall be disqualified from receiving cash assistance for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2454 (December 1999).

### §1257. Reporting Requirements

A. A FITAP household shall report any change that affects eligibility or the amount of monthly benefits. Changes in income must be reported if the household's gross monthly income changes by more than $100 in earned income or $25 in unearned income.

B. Changes shall be reported within 10 days of the knowledge of the change unless the FITAP household is included in a food stamp semi-annual reporting household. The FITAP household is then subject to the semi-annual household reporting requirements in accordance with §2013.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:522 (March 2002).

## Subchapter C. Recovery

### §1285. IV-D Recovery of Support Payments

A. When assigned child support payments are received and retained by the FITAP applicant/recipient, responsibility is placed with the IV-D agency (Child Support Enforcement Services) to recover all such payments. The only exception is a direct payment retained by the recipient during the period when the sanction for failure to cooperate is in effect.

B. In providing for this policy the IV-D staff must:

1. document that the recipient has received and retained direct payments, and the amounts;

2. provide a written notice of intent to recover the payments to the recipient including:

a. an explanation of the recipient's responsibility to cooperate by turning over direct payments as a condition of eligibility for FITAP, and a sanction for failure to cooperate as provided at 45 CFR 232.12(d);

b. a detailed list of the direct payments as documented by IV-D, including dates and amounts of payments and description of documentary evidence possessed by IV-D;

c. a proposal for a repayment agreement related to the recipient's income and resources including the FITAP grant and the total amount of retained support;

d. providing the opportunity for the recipient to have an informal meeting to clarify his responsibilities and to resolve any differences regarding repayment.

C. The IV-D Agency (Child Support Enforcement Services) must refer the case to IV-A (FITAP Program) with evidence of failure to cooperate if the recipient refuses to sign a repayment agreement or signs an agreement but subsequently fails to make a payment. IV-D must also notify IV-A if a recipient later consents to an agreement or if the recipient who defaulted on the agreement begins making regularly scheduled payments.

D. To recover amount due from any period of default, the IV-D Agency (Child Support Enforcement Services) must extend the duration of the agreement.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2454 (December 1999).

## Subchapter D. Special Initiatives

### §1290. Energy Assistance

A. Based on the availability of funding and a determination of need by OFS, all households receiving a FITAP grant may also be eligible to receive an energy assistance grant effective August 20, 2001, to apply towards the cost of utility service. OFS will establish a specific date of eligibility in order to determine when households will receive a grant, and only those households certified as of that date will be eligible for energy assistance.

B. The payment process will be administered by an outside entity through a contractual agreement. Recipients will be required to provide verification of identity as well as proof of residency at the utility service address. The energy assistance payment will be paid directly to the recipient's utility company or provider.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:103 (January 2002).

# Chapter 15. General Program Administration

## Subchapter A. Fraud

### §1501. Fraud Control Program

A. The Office of Family Support maintains a fraud control program in the Family Independence Temporary Assistance Program (FITAP) Program.

B. Under this program, the Office of Family Support may:

1. implement an administrative hearing procedure for FITAP fraud cases; and

2. disqualify the adult found guilty of FITAP fraud by a court or in an administrative hearing.

3. Cash assistance shall be denied to an individual for 10 years from the date that individual is convicted in federal or state court of having made a fraudulent statement or representation with respect to his place of residence in order to receive assistance simultaneously from two or more states. This does not apply with respect to a conviction of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct which was the subject of the conviction.

C. If an individual who is a member of a family applying for or receiving FITAP is found by a federal or state court or by an administrative hearing to have intentionally made a false or misleading statement or misrepresented, concealed, or withheld facts, or committed any act intended to mislead, misrepresent, conceal or withhold facts or propound a falsity, for the purpose of establishing or maintaining the family's eligibility for aid or of increasing or preventing a reduction in benefits, then that individual's needs shall not be taken into account in making the eligibility or benefits determination. That individual shall be disqualified for a period of six months for the first offense, 12 months for the second offense, and permanently for the third or any subsequent occasion of any such offense.

D. Each applicant shall be provided with a written notice of the penalties for fraud at the time of FITAP application.

AUTHORITY NOTE: Promulgated in accordance with P.L. 100-203 and CFR 235, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 14:439 (July 1988), amended by the Department of Social Services, Office of Family Support, LR 20:1019 (September 1994), LR 23:449 (April 1997).

## Subchapter B. Recovery

### §1503. Recovery of Overpayments

A. All FITAP overpayments shall be subject to collection either by recoupment or recovery with the exception of:

1. inadvertent household error claims of $250 or less; and

2. administrative error claims.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), amended by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998), LR 27:428 (March 2001).

### §1506. Special Considerations in Determining Recovery Amounts

A. If the payee fails to report a child's absence of more than a 45-day duration by the end of the five-day period that begins with the date that it became clear to the payee that the child would be absent for a 45-day period, and good cause for the absence is not established, the needs of the payee as well as the needs of the child will be excluded when determining the recovery amount.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104B193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:449 (April 1997).

## Subchapter C. Confidentiality

### §1507. Disclosing Information Concerning Fugitive Felons

A. OFS may disclose, to state and local law enforcement officers, the current address of any FITAP recipients who are fugitive felons if the law enforcement officer gives the agency the recipient's name and social security number and satisfactorily demonstrates that the recipient is a fugitive felon.

AUTHORITY NOTE: Promulgated in accordance with P.L. 98-369 and F.R. 49:35586 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984).

# Title 67
# SOCIAL SERVICES
# Part III. Family Support
# Subpart 3. Food Stamps

## Chapter 17. Administration

## Subchapter A. General Provisions

### §1701. Authority

A. The Food Stamp Program is administered under the authority of applicable federal and state laws.

AUTHORITY NOTE: Promulgated in accordance with applicable sections of 7 CFR and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:1226 (December 1991), amended LR 24:108 (January 1998).

## Subchapter B. General Administrative Requirements

### §1703. Food Stamp Manual

A. Rules and regulations regarding the implementation of the Food Stamp Act of 1977, have been adopted effective January 1, 1979, and March 1, 1979.

B. The Office of the State Register has determined that publication of these rules would be unduly cumbersome and exercised its privilege to omit them from the *Louisiana Register*, as per R.S. 49:954.1(C). The new Food Stamp Manual may be obtained from the Office of Family Security, Box 44065, Baton Rouge, Louisiana 70804. Also, copies of the Food Stamp Manual are available for public inspection at each OFS parish office.

[*Editor's Note:* The address has been changed to: Office of Family Support, Box 94065, Baton Rouge, Louisiana 70804.]

AUTHORITY NOTE: Promulgated in accordance with F.R. 43:47846 et seq. and R.S. 49:954.1(C), 7 CFR 271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 4:511 (December 1978).

### §1705. Outreach

A. The outreach program will be discontinued but program informational material will continue to be available.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., 7 CFR 272.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982).

### §1709. Purchasing Prepared Meals

A. Effective May 1, 1987 homeless food stamp recipients (including newly eligible residents of temporary shelters for the homeless) may use their food stamps to purchase prepared meals served by an authorized public or nonprofit establishment that feeds homeless people.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:7554 et seq., 7 CFR 274.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:287 (May 1987), LR 13:437 (August 1987).

### §1711. Disabled People in Group Living Arrangements

A. All individuals residing in group living arrangements who meet the Food Stamp Act's definition of "disabled" (as defined in Section 3(r) of the Food Stamp Act) are eligible to receive food stamps to purchase their prepared meals.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.2, 273.1(e)(1)(iii), 278.1(f).

HISTORICAL NOTE: Promulgated by emergency rule effective February 1, 1992 by the Department of Social Services, Office of Family Support, LR 18:142(February 1992), amended by emergency rule effective June 16, 1992, LR 18:686 (July 1992), amended LR 18:1267 (November 1992).

## Subchapter C. Food Stamp Disaster Program

### §1713. Emergency Food Assistance Program for Disaster Victims

A. Under the authority of Section 5(h)(1) of the Food Stamp Act of 1977 and 7 CFR Part 280, the Department of Social Services, Office of Family Support, does hereby establish an Emergency Food Assistance Program for Victims of Disaster.

B. This program provides emergency food stamp assistance to households in an area which has been included in a food stamp disaster declaration. The secretary of the U.S. Department of Agriculture (USDA), or his designee, determines the areas to be included in such a declaration, the temporary eligibility standards, grant amounts, and duration of the program.

C. In order for a parish or community to be eligible for inclusion in a food stamp disaster declaration, the following criteria must be met:

1. normal commercial channels for food distribution were disrupted by the disaster;

2. normal food distribution channels were restored;

3. the normal, ongoing Food Stamp Program is unable to expeditiously handle the volume of households affected by the disaster.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 280 and Section 5(h)(1) of the Food Stamp Act of 1977.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:939 (September 1992), LR 18:1351 (December 1992), LR 19:213 (February 1993).

# Chapter 19. Certification of Eligible Households

## Subchapter A. Household Concept

### §1901. Household Composition

A. The definition of a household includes an individual or a group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

B. Separate household status may not be granted to the following individuals or groups of individuals, even if they purchase and prepare meals separately:

1. spouses who live together;

2. natural, adopted or step-children, age 21 or under who live with their parents.

C. The definition of a household provides that elderly individuals (and their spouses) who cannot prepare their own meals because they suffer from disabilities considered permanent under the Social Security Act or some other physical or mental non-disease-related disabilities may be a separate household even if living and eating with others. This is limited to those cases where the gross income of the individuals with whom the elderly or disabled person resides does not exceed 165 percent of the poverty level.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:52328 et seq., F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.1, P.L. 100-77, P.L. 103-66, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security LR 8:9 (January 1982), amended LR 9:62 (February 1983), LR 9:130 (March 1983), LR 13:643 (November 1987), LR 14:87 (February 1988), amended by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:79 (January 1997).

### §1903. Boarder

A. Effective February 1, 1989 foster children are to be considered "boarders" and must be certified under the provisions governing boarder status in Section C-140 and E-210 of the FAM-4. The provision under E-211.1 which prohibits granting boarder status to children under 18 years of age who are under the parental control of an adult household member does not apply with regard to foster children. In addition, the foster care payments must be excluded from consideration as income to the household providing the foster care.

B. However, foster care households continue to have the option to treat the foster children as members of the household in accordance with current boarder policy. The entire foster care payments would then count as income to the household.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:74 (February 1989), LR 15:392 (May 1989).

### §1905. Definition of Elderly and Disabled

A. Effective August 1, 1986, the definition of elderly and disabled member has been expanded to read as follows: A member of a household who:

1. is 60 years of age or older;

2. receives Supplemental Security Income benefits under Title XVI of the Social Security Act or disability or blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act;

3. receives federally or state-administered supplemental benefits under Section 1616(a) of the Social Security Act provided that the eligibility to receive the benefits is based upon the disability or blindness criteria used under Title XVI of the Social Security Act;

4. receives federally or state-administered supplemental benefits under Section 212(a) of P.L. 93-66;

5. receives disability retirement benefits from a governmental agency because of a disability considered permanent under Section 221(i) of the Social Security Act;

6. a veteran with a service-connected or non-service-connected disability rated by the Veteran's Administration (VA) as total or paid as total by the VA under Title 38 of the United States Code;

7. is a veteran considered by the VA to be in need of regular aid and attendance or permanently housebound under Title 38 of the United States Code;

8. is a surviving spouse of a veteran and considered by the VA to be in need of regular aid and attendance or permanently housebound or a surviving child of a veteran and considered by the VA to be permanently incapable of self-support under Title 38 of the United States Code; or

9. is a surviving spouse or surviving child of a veteran and considered by the VA to be entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under Title 38 of the United States Code and has a disability considered permanent under Section 221(i) of the Social Security Act. "Entitled" as used in this definition refers to those veterans' surviving spouses and surviving children who are receiving the compensation or pension benefits stated or have been approved for such payments, but are not yet receiving them;

10. receives an annuity payment under Section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and is determined to be eligible to receive Medicare by the Railroad Retirement Board; or Section 2(a)(i)(v) of the Railroad Retirement Act of 1974 and is determined to be

disabled based upon the criteria used under Title XVI of the Social Security Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953(B), 7 CFR 273.1.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:486 (August 1986), LR 12:768 (November 1986).

## Subchapter B. Application Processing

### §1907. Expedited Service - Initial and Subsequent Month Benefits

A. Households certified after the 15th of the month under the expedited processing standards shall be certified the initial month with prorated benefits and for the subsequent month with full benefits.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., 7 CFR 273.2.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982)

### §1911. Households Eligible for Expedited Service

A. Expedited service is defined as the providing of food stamp benefits no later than seven calendar days from the application date.

B. Households entitled to receive benefits under the Food Stamp Program's expedited service procedure are defined as follows:

1. those households whose combined gross income and liquid resources are less than the household's monthly rent or mortgage and utilities;

2. households whose countable gross monthly income is less than $150 and whose countable liquid resources are $100 or less;

3. migrant or seasonal households who are destitute and whose countable liquid resources are $100 or less.

C. Verification shall be required of income and liquid resources to the extent practical within the expedited service time frame.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 52:36390 et seq., 7 CFR 273.2, P.L. 104-193.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), LR 13:738 (December 1987), amended LR 14:150 (March 1988), amended by the Department of Social Services, Office of Family Support, LR 23:80 (January 1997).

### §1913. Determination of Eligibility of Migrant or Seasonal Farmworkers

A. Two provisions of the Drought Relief Act changed the Food Stamp Program's procedures pertaining to the determination of eligibility and benefit levels for migrant or seasonal farmworkers. This is effective for applications received as of September 1, 1988 or allotments issued for the month of September, 1988.

1. Proration of Initial Month's Benefits. The first provision affects the proration of benefits after a break in participation in the Food Stamp Program. This provision requires that migrant and seasonal farmworkers receive the full allotment for a month of application when the household has participated in the program within 30 days prior to the date of application. Thus, unless the household's break in participation exceeds 30 days, the migrant or seasonal farm worker household is eligible for a full month's allotment, rather than a prorated allotment, in the month of application.

2. Income Exclusion for Emergency PA or GA Assistance Payments. The second provision provides an income exclusion for any emergency PA or GA assistance payment which is provided to a third party on behalf of the migrant or seasonal farmworker household (i.e., vendor payments) while the household is in the job stream. This assistance may include, but is not limited to emergency vendor payments for housing or transportation.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.2.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 14:602 (September 1988), LR 14:871 (December 1988), amended by the Department of Social Services, Office of Family Support, LR 24:1782 (September 1998).

### §1915. Homeless Food Stamp Household

A. The definition of "homeless food stamp household" is being replaced by the definition of a "homeless individual."

B. *Homeless Individual* - individual who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is:

1. a supervised shelter designed to provide temporary accommodations (such as a welfare hotel or congregate shelter);

2. a halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized;

3. a temporary accommodation for not more than 90 days in the residence of another individual; or

4. a place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings (a hallway, a bus station, a lobby or similar places).

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:7554 et seq, F.R. 52:36390 et seq., 7 CFR 273.2, P.L. 104-193.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:287 (May 1987), LR 13:437 (August 1987), amended LR 13:643 (November 1987), LR 14:87 (February 1988), amended by the Department of Social Services, Office of Family Support LR 23:80 (January 1997).

### §1917. Homeless Meal Provider

A. A *homeless meal provider* is a public or private nonprofit establishment (e.g., soup kitchen, temporary shelter) approved by the Office of Family Support that feeds homeless food stamp households. To be eligible to accept food stamp benefits, a meal provider must also be authorized

by Food and Nutrition Service (FNS) after the Office of Family Support approves it.

B. The provider must serve meals that include food purchased by the establishment. A meal provider serving only meals which consist wholly of donated foods is not eligible for authorization.

C. Only those food stamp households determined to be homeless shall be permitted to use food stamp benefits to purchase prepared meals served by authorized homeless meal providers. To ensure that the use of food stamp benefits for prepared meals is restricted to homeless persons, homeless meal providers shall establish that person's right to use food stamp benefits to purchase meals.

D. Applicant meal providers must apply for approval at the Office of Family Support in their parish. An approval review at the provider's establishment will be conducted by the regional program specialist. After approval has been granted by OFS, the provider must then make application to an FNS field office to receive authorization to accept food stamp benefits. The FNS office is located at 777 Florida Street, Room 174, Baton Rouge, Louisiana 70801, telephone number 504-389-0491.

E. Homeless meal providers may accept food stamp benefits as authorized retail redemption points after authorization from the Office of Family Support and FNS. The provider will receive settlement from the Federal Treasury as an electronic deposit directly to the provider's account at a financial institution. Homeless meal providers that redeem food stamp benefits in excess of $100 per month will be provided equipment that will allow acceptance, redemption and settlement of program funds electronically. Others may participate by using manual vouchers.

F. The use of food stamp benefits to purchase meals from homeless meal providers is voluntary on the part of food stamp recipients. Food stamp recipients must continue to be given the option of using cash if payment for a meal is required. In addition, if others have the option of eating free or making a monetary donation, homeless food stamp recipients must be given the same option (eat free, or donate money or food stamp benefits). The amount requested from homeless food stamp recipients using food stamp benefits to purchase meals may not exceed the average cost to the homeless meal provider of the food contained in a meal served to the patrons of the meal provider. If a homeless recipient voluntarily pays more than the average cost of food contained in a meal served, such payment may be accepted by the meal provider.

G. Homeless meal providers will not be permitted to serve as "authorized representative" for homeless food stamp households.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:7554 et seq., 7 CFR 273.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 3:287 (May 1987), LR 13:437 (August 1987), amended by the Department of Social Services, Office of Family Support, LR 24:1782 (September 1998).

### §1919. Certification of Information

A. Effective August 1, 1986, one adult member in all applicant households must certify in writing under penalty of perjury, the truth of the information contained in the application for the household's coupon allotment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953(B), 7 CFR 273.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:486, LR 12:768 (November 1986).

### §1921. SSI and Food Stamp Application by Residents of Public Institutions

A. Effective May 1, 1989 residents of public institutions who apply for SSI prior to their release from an institution under the Social Security Administration's Prerelease Program for the Institutionalized (42 U.S.C. 1383) shall be permitted to apply for food stamps at the same time they apply for SSI.

B. When a resident of an institution is jointly applying for SSI and food stamps prior to leaving the institution, the filing date of the application to be recorded by Office of Eligibility Determinations (OED) on the application is the date of release of the applicant from the institution.

C. The Office of Eligibility Determinations shall make an eligibility determination and issue food stamp benefits to a resident of a public institution who applies jointly for SSI and food stamps within 30 days (or five days if expedited processing is appropriate) following the date of the applicant's release from the institution. Expedited processing time standards for an applicant who has applied for food stamps and SSI prior to release shall also begin on the date of the applicant's release from the institution. SSA shall notify OED of the date of release of the applicant from the institution.

D. If, for any reason, OED is not notified on a timely basis of the applicant's release date, OED shall restore benefits to such applicant back to the date of release.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:4249 et seq., 7 CFR 273.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:157 (March 1989), LR 15:497 (June 1989).

### §1923. Verification

A. Effective April 1, 1987, in addition to federally required verification, the Office of Family Security may mandate verification of any other factor which affects household eligibility or allotment level, including household size where not questionable.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:429 (August 1987), LR 13:656 (November 1987).

### §1927. Disclosure of Information

A. Effective February 1, 1985, use or disclosure of information obtained from food stamp applicant households, exclusively for the Food Stamp Program, shall be restricted to the following persons:

1. persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or regulations, other federal assistance programs, or federally assisted state programs which provide assistance, on a means-tested basis, to low income individuals;

2. employees of the Comptroller General's Office of the United States for audit examination authorized by any other provision of law; and

3. local, state or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulations. The written request shall include the identity of the individual requesting the information, and his authority to do so, the violation being investigated and the identity of the person on whom the information is requested.

B. If there is a written request by a responsible member of the household, its currently authorized representative, or a person acting on its behalf to review material and information contained in its casefile, the material and information contained in the casefile shall be made available for inspection during normal business hours. However, the state agency may withhold confidential information, such as the names of individuals who have disclosed information about the household without the household's knowledge, or the nature or status of pending criminal prosecutions.

AUTHORITY NOTE: Promulgated in accordance with F.R. 49:48677 et seq., 7 CFR 273.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:95 (February 1985), LR 11:349 (April 1985).

### §1928. Verification of Eligibility

A. The Office of Family Support shall require verification of residency requirements, the identity of the person making application and continuing shelter charges.

B. The Office of Family Support may, with prior Food and Nutrition Service approval, require additional verification of other eligibility factors as indicated by quality control reviews, audits, or other special reviews.

C. The agency will require verification of necessary information within 10 days. Failure to provide such verification may result in rejection of the application unless the household has requested additional time in which to obtain the verification or assistance in obtaining the verification. If the case is closed due to failure to submit required verification and the verification is subsequently provided within the initial 30-day period, the application will be reactivated retroactively to the date of application. If the verification is provided in the second 30-day period, the application will be reactivated and benefits will be prorated from the date the missing verification is provided.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:3194 et seq., 7 CFR 273.2, 7 CFR 273.3.c.(1)(ii).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:710 (April 1999).

## Subchapter C. Reserved (for Residency)

## Subchapter D. Citizenship and Alien Status

### §1931. Qualified Aliens

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

1. an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;

2. an alien who is granted asylum under Section 208 of such Act;

3. a refugee who is admitted to the United States under Section 207 of such Act;

4. an alien who is paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year;

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

6. an alien who is granted conditional entry pursuant to '203(a)(7) of such Act as in effect prior to April 1, 1980; or

7. an alien who is a *Cuban* or *Haitian* entrant, as defined in '501.e of the Refugee Education Assistance Act of 1980;

8. an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien if the spouse or parent consented to, or acquiesced in, such battery or cruelty. The individual who has been battered or subjected to extreme cruelty must no longer reside in the same household with the individual who committed the battery or cruelty. The agency must also determine that a substantial connection exists between such battery or cruelty and the need for the benefits to be provided. The alien must have been approved or have a petition pending which contains evidence sufficient to establish:

a. the status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of '204(a)(1)(A) of the Immigration and Nationality Act (INA); or

b. the classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA; or

c. the suspension of deportation and adjustment of status pursuant to '244(a)(3) of the INA; or

d. the status as a spouse or child of a United States citizen pursuant to clause (i) of '204(a)(1)(A) of the INA, or classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA;

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

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

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

### §1932. Time Limitations for Certain Aliens

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

1. refugees admitted under '207 of the Immigration and Nationality Act (INA);

2. asylees admitted under '208 of the INA; and

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

4. *Cuban* and *Haitian* entrants as defined in '501(e) of the Refugee Education Assistance Act of 1980;

5. *Amerasian* immigrants admitted pursuant to '584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 as contained in '101(e) of P.L. 100-202 and amended by the 9th proviso under migration and refugee assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, P.L. 100-461, as amended.

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

1. veterans who have met the minimum active duty service requirements of Section 5303 A(d) of Title 38, *United States Code*, who were honorably discharged for reasons other than alienage and their spouses or unremarried surviving spouses, if the marriage fulfills the requirements of Section 1304 of Title 38, *United States Code*, and unmarried dependent children;

2. active duty personnel (other than active duty for training) and their spouses, or unremarried surviving spouses, if the marriage fulfills the requirements of Section 1304 of Title 38, *United States Code*, and unmarried dependent children;

3. aliens who have worked 40 qualifying quarters of coverage under Title II of the Social Security Act or can be credited with such qualifying quarters;

4. individuals who were lawfully residing in the United States on August 22, 1996 and are receiving benefits or assistance for blindness or disability as defined in '3(r) of the Food Stamp Act of 1997.

5. individuals who were lawfully residing in the United States on August 22, 1996 and were 65 years of age or older;

6. individuals who were lawfully residing in the United States on August 22, 1996 and are under 18 years of age.

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

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

### §1933. Non-Qualified Aliens

A. The following aliens may be eligible for an indefinite period of time even though they are not qualified aliens.

1. Individuals who are lawfully residing in the United States and were members of a Hmong or Highland Laotians tribe at the time the tribe rendered assistance to the United States personnel by taking part in a military rescue operation during the Vietnam era beginning August 5, 1964 and ending May 7, 1975, as defined in '101 of Title 38, *United States Code*; the spouse or an unmarried, dependent child of such an individual; or the unremarried surviving spouse of such an individual who is deceased.

2. Individuals who are American Indian born in Canada to whom the provisions of '289 of the Immigration and Nationality Act apply or who is a member of an Indian tribe as defined in '4(e) of the Indian Self-Determination and Education Assistance Act.

AUTHORITY NOTE: Promulgated in accordance with P.L. 105-185.

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

## Subchapter E. Students

### §1935. Dependent Care for Students

Eligible students with dependents must be responsible for a dependent household member under the age of six; or be responsible for the care of dependent household member who has reached the age of six but is under age 12 where the Office of Family Support has determined that adequate child care is not available; or be receiving benefits from the Family Independence Temporary Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 24:1783 (September 1998).

### §1937. Student Related Provisions

A. The term institution of higher education has been changed to institution of postsecondary education. The definition has also been expanded to include any public or

private educational institutions which admit persons who are age 16 or older provided that the institution is legally authorized or recognized by the state to provide an educational program beyond secondary education or provides a program of training to prepare students for gainful employment.

B. Educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like that are provided to a third party on behalf of the household for living expenses such as rent or mortgage, personal clothing or food eaten at home shall be treated as money payable directly to the household and not excluded as a vendor payment.

C. Origination fees and insurance premiums on student loans are excludable charges. Only the amount of the loan after these charges have been excluded is to be considered income.

D. Exclusions from Education Assistance

1. The entire amount of the following types of educational assistance are excluded without regard to earmarking or verification of actual school expenses:

a. Title IV, Higher Education Act, for school period beginning on or after July 1, 1993.

b. Title IV, College Work Study, Federal, for school period beginning on or after July 1, 1993. Not all Federal College Work Study come under Title IV; these are handled the same as State College Work Study funds.

c. Title IV, Bureau of Indian Affairs, for school period beginning on or after July 1, 1993.

d. Job Training Partnership Act (JTPA). Earnings from on the job training under Section 204(5) Title II for household members over 18 years of age are considered earned income, subject to the 20 percent earned income deduction.

e. Title XIII, Indian Higher Education Programs, effective October 1, 1992.

2. All other educational assistance will be excluded in the same manner regardless of the source of the assistance, i.e., an exclusion from educational income shall be granted based on amounts either earmarked by the institution, school program, or other grantor or verified by the student as made available for the specific costs of tuition, mandatory fees, books, supplies, transportation, and miscellaneous personal expenses (other than living expenses).

3. The definition of mandatory fees includes the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved.

4. The maximum age level of students attending institutions of higher education who are prohibited from receiving food stamp assistance is 50 years of age.

5. Eligible student status shall be granted to students participating in a state or federally financed work study program during the regular school year and the work incentive program under Title IV of the Social Security Act or its successor programs.

6. The funds from PASS (Plan for Achieving Self-Support) accounts will be excluded as income for the food stamp program.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 271.2, 273, and 278, F.R. 51:30045 et seq. and P.L. 102-325.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security LR 12:756 (November 1986), amended LR 13:91 (February 1987), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 19:885 (July 1993), LR 19:1436 (November 1993).

# Subchapter F. Reserved (for Social Security Numbers)

# Subchapter G. Work Requirements

### §1938. Work Registration Requirements

A. Each household member who is not exempt from work registration shall be registered for employment at the time of application and once every 12 months after initial registration as a condition of eligibility. At the time of application, the state agency shall explain to the applicant the consequences of violation of the work requirements.

1. No individual physically and mentally fit and between the ages of 16 and 60, is eligible to participate if that individual:

a. refuses without good cause to provide sufficient information to allow a determination of his/her employment status or job availability;

b. voluntarily and without good cause quits a job;

c. voluntarily and without good cause reduces his/her work effort (and, after the reduction, is working less than 30 hours a week);

d. refuses, at the time of application and every 12 months thereafter, to register for employment;

e. refuses without good cause to participate in an employment and training program; or

f. refuses without good cause to accept an offer of employment.

2. If it is determined that an individual other than the head of the household has violated the work requirements without good cause, that individual shall be ineligible to participate in the Food Stamp Program as follows:

a. first sanction—until failure to comply ceases or three months, whichever is longer;

b. second or subsequent sanction—until failure to comply ceases or six months, whichever is longer.

3. If the head of the household fails to comply, the entire household is ineligible to participate for the duration of the disqualification period.

4. If any household member who violated the work requirement joins another household as head of the household, that entire new household is ineligible for the remainder of the disqualification period. If the member who violated the work requirement joins another household where that individual is not head of household, that individual shall be considered an ineligible household member.

B. Determining Whether a Work Requirement Violation Occurred

1. When a household files an application for participation, or when a participating household reports the loss of a source of income, the OFS shall determine whether any household member:

a. refused without good cause to provide sufficient information to allow a determination of his/her employment status or job availability;

b. voluntarily and without good cause quit a job;

c. voluntarily and without good cause reduced his/her work effort (and, after the reduction, is working less than 30 hours a week);

d. refused, at the time of application and every 12 months thereafter, to register for employment;

e. refused without good cause to participate in an employment and training program;

f. refused without good cause to accept an offer of employment.

2. Benefits shall not be delayed beyond the normal processing times pending the outcome of this determination. This provision applies only if the employment involved 20 hours or more per week or provided weekly earnings equivalent to the federal minimum wage multiplied by 20 hours; the violation occurred within 60 days prior to the date of application or anytime thereafter, and was without good cause. Terminating a self-employment enterprise or resigning from a job at the demand of the employer will not be considered a violation for purpose of this Section. An employee of the federal government, or of a state or local government who participates in a strike against such government, and is dismissed from his or her job because of participation in the strike, shall be considered to have violated the work requirements without good cause.

3. If an application for participation is filed in the last month of the disqualification period, the eligibility worker shall use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month(s) if all other eligibility criteria are met.

4. Upon a determination that a violation of the work requirements occurred, the OFS shall determine if the violation was with good cause. If it is determined that good cause does not exist, the sanction will be imposed. The OFS shall provide the household with a notice of ineligibility. The notice shall inform the household of the proposed period of disqualification; its right to reapply at the end of the disqualification; and of its right to a fair hearing.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:80 (January 1997).

**§1939. Work Exemption Guidelines**

A. Exemptions from Work Registration. A parent or other household member who is responsible for the care of a dependent child under the age of 6 is exempt from work registration.

B. Job Search. The Office of Family Support has opted not to impose job search at the time of application.

AUTHORITY NOTE: Promulgated in accordance with F.R. 49:39035 et seq., 7 CFR 273.7; P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resource, Office of Family Security, LR 10:865 (November 1984), LR 11:39 (January 1985), amended by the Department of Social Services, Office of Family Support, LR 23:81 (January 1997).

**§1940. Work Participation Requirements for Able-bodied Adults Without Dependents**

A. Individuals are ineligible to continue to receive food stamps if, during the preceding 36-month period they received food stamps for at least three months (consecutive or otherwise) while that individual did not either:

1. work at least 20 hours per week;

2. participate in and comply with a Job Training Partnership Act Program, Trade Adjustment Act Program, or Employment and Training Program (other than a job search or job search training program) for 20 hours or more per week; or

3. participate in and comply with a workfare program.

B. An individual is exempt from this requirement if the individual is:

1. under 18 or over 50 years of age;

2. medically certified as physically or mentally unfit for employment;

3. a parent or a member of a household with responsibility for a dependent child;

4. pregnant; or

5. otherwise exempt.

C. Individuals can regain eligibility for assistance.

1. Individuals denied eligibility under the new work rule can regain eligibility if during a 30-day period the individual:

a. works 80 hours or more;

b. participates in and complies with a Job Training and Partnership Act program, Trade Adjustment Assistance Act program, or Employment and Training program (other

than a job search or job search training program) for 80 hours or more;

c. participates in and complies with a workfare program (under Section 20 of the Food Stamp Act or a comparable state or local program) for 80 hours or more.

2. If individuals subsequently lose this employment or cease participation in work or workfare programs, participation can continue for up to three consecutive months (beginning from the date the state is notified that work has ended), after which the only cure during the 36-month period will be to comply with the work requirement or to become exempt under other provisions of the requirement.

D. The first countable month of this provision is November, 1996.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:81 (January 1997).

### §1941. Work Requirements of the Food Stamp Household

A. Persons losing exemption status due to any change in circumstances that are subject to the reporting requirements shall register for employment when the change is reported.

1. A person age 16 or 17 who is not head of household or who is attending school or enrolled in an employment training program on at least a half-time basis is exempt.

2. A household member subject to and complying with any work requirement under Title IV of the Social Security Act is also exempt.

B. The OFS shall register for work each household member who is not exempt. The OFS will explain to the applicant the pertinent work requirements, rights and responsibilities of work registered household members, and the consequences of failure to comply. A written statement of this will be given to each work registrant. The OFS shall be responsible for screening each work registrant to determine whether or not it is appropriate, based on OFS's criteria, to refer the individual to an employment and training program, if available, and if appropriate, referring the individual to an employment and training program component. The registrant will be told either orally or in writing, the requirements of the component, what will constitute noncompliance and the sanctions for noncompliance. The OFS shall take appropriate sanction action within 10 working days after learning of noncompliance.

C. Employment and Training (E&T) Programs

1. The OFS submitted an employment and training program plan to the United States Department of Agriculture, Food and Consumer Services (FCS) Dallas Regional Office and the FCS Office of Alexandria, Virginia. A copy of the plan is available for public inspection at the Food Stamp Program Office, 438 Main Street, Baton Rouge, Louisiana.

2. Persons required to register for work and not exempted by OFS from placement in an employment and training program shall be subject to the requirements imposed by the OFS for that individual. Such individuals are referred to as E&T mandatory participants. Requirements may vary among participants. Failure to comply without good cause with the requirement imposed by the OFS shall result in disqualification.

3. Work registrants shall:

a. participate in an employment and training program, if assigned by the OFS;

b. respond to a request from the OFS or its designees for supplemental information regarding employment status or availability for work;

c. report to an employer to whom referred by the OFS or its designee if the potential employment meets the suitability requirements;

d. accept a bona fide offer of suitable employment at a wage not less than the higher of either the applicable state or federal minimum wage.

4. Ending or Avoiding Employment and Training (E&T) Sanctions

a. Conciliation is an attempt to reach a resolution of the participant's failure to comply with the employment and training requirement prior to initiation of a sanction. The purpose of conciliation is to determine the reason the work registrant did not comply with the employment and training requirement and to provide the noncomplying individual with an opportunity to comply prior to the issuance of a notice of adverse action. The conciliation period shall begin the day following the date an individual fails to comply and shall continue for a period not to exceed 30 calendar days. A conciliation letter will be sent to the participant by the contractor/provider when conciliation begins.

b. Conciliation must be initiated by the contractor/provider when there is knowledge of the participant's failure to comply; cannot exceed 30 days, and may end sooner if the participant refused to cooperate in the process; and is considered successful when a verifiable act of compliance is performed by the participant or good cause is established. If the conciliation process is not successful, the process of sanctioning shall be initiated.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.7 (c) (2); P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:229 (April 1987), LR 13:394 (July 1987), amended by the Department of Social Services, Office of Eligibility Determinations, 14:770 (November 1988), LR 15:96 (February 1989), amended by the Department of Social Services, Office of Family Support, LR 18:245 (March 1992), LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 23:81 (January 1997).

# Subchapter H. Resource Eligibility Standards

### §1945. Resource Test

A. Effective June 1, 1983, households in which all members receive Family Independence Temporary Assistance Program (FITAP) and whose income meets the gross income eligibility standards will be considered to have satisfied the Food Stamp Program's resource test. However, the households must continue to meet all other Food Stamp Program eligibility standards, including the net income standards. Section 12-235 of the Food Stamp manual will be amended to reflect this change.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:55907 et seq., 7 CFR 273.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:324 (May 1983).

### §1947. Resources

A. An IRA, or individual retirement account, less the amount that would be lost as penalty for early withdrawal of the entire account, is included in a household's resources

AUTHORITY NOTE: Promulgated in accordance with F.R. 7:55463 et seq. and 47:55903 et seq., 7 CFR 273.8, P.L. 103-66, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:82 (January 1997), LR 27:867 (June 2001).

### §1949. Exclusions from Resources

A. The following are excluded as a countable resource:

1. nonliquid asset(s) against which a lien has been placed as a result of taking out a business loan and the household is prohibited by the security or lien agreement with the lien holder (creditor) from selling the assets;

2. property, real or personal, to the extent that it is directly related to the maintenance or use of an income producing vehicle or a vehicle necessary to transport a physically disabled household member. Only that portion of real property determined necessary for maintenance or use is excludable under this provision;

3. inaccessible resource, that is, one whose sale or other disposition is unlikely to produce any significant amount of funds for the support of the household. Verification shall be required only if the information provided by the household is questionable;

4. the value of a vehicle other than a recreational vehicle. A recreational vehicle is a vehicle that is designed for recreational use and not used as ordinary means of transportation.

B. All of the resources of recipients of FITAP, SSI, and aid to the aged, blind, or disabled under Titles I, II, X, XIV, or XVI of the Social Security Act are excluded.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.8 and 273.9C(v), P.L. 103-66.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:429 (August 1987), amended LR 13:656 (November 1987), LR 17:953 (October 1991), amended by the Department of Social Services, Office of Family Support, LR 18:142 (February 1992), LR 18:686 (July 1992), LR 18:1267 (November 1992), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:187 (February 1995), LR 27:867 (June 2001), LR 27:1934 (November 2001).

# Subchapter I. Income and Deductions

### §1951. Strikers

A. For food stamp purposes, a striker is defined as anyone involved in a strike or concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees. Any employee engaged in a lockout, however, is not deemed to be a striker.

B. Strikers shall be subject to the work registration requirement unless otherwise exempt.

C. Effective March 1, 1983, households with striking members shall be ineligible to participate in the Food Stamp Program unless the household was eligible for benefits the day prior to the strike and is otherwise eligible at the time of application. However, such a household shall not receive an increased allotment as the result of a decrease in the income of the striking member(s) of the household. Eligibility shall be determined by considering the day prior to the strike as if it were the day of application and assume the strike did not occur. Eligibility at time of application shall be determined by comparing the striking member's income before the strike to the striker's current income and adding the higher of the two to the current income of nonstriking members during the month of application. To determine benefits, deduction shall be calculated for the month of application as for any other household. Whether the striker's pre-striker earnings are used or his current income is used, the earnings deduction shall be allowed if appropriate.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:52328 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), amended LR 9:62 (February 1983).

### §1953. Income Eligibility Standards

A. The income eligibility standards for the Food Stamp Program shall be as follows:

1. Gross Income. (All households except those specified in Paragraph 2 below.) The income eligibility standards for the contiguous 48 states and the District of Columbia, Guam, Puerto Rico and the Virgin Islands shall be 130 percent of the Office of Management and Budget's (OMB) nonfarm income poverty guidelines for the 48 states and the District of Columbia.

2. Net Income. For households which contain a member who is 60 years of age or over, or a member who receives Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act, or disability and blindness payments under Titles I, II, X, XIV of the Social Security Act, the net income eligibility standards for the Food Stamp Program shall be as follows: The income eligibility standards for the contiguous 48 states and the District of Columbia, Guam, Puerto Rico and the Virgin Islands shall be the Office of Management and Budget's (OMB) nonfarm income poverty guideline for the 48 states and the District of Columbia.

3. Effective April 1, 1983, Section 12-236 will be revised to amend the income eligibility standards. Households with no elderly or disabled members will be subject to both the gross and net income eligibility tests. To be eligible, these households must meet both the net and gross income standards.

4. The income eligibility limits, as described in this Paragraph, are revised each July 1, to reflect OMB's annual adjustment to the nonfarm poverty guidelines for the 48 states and the District of Columbia, for Alaska, and for Hawaii.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), amended LR 9:130 (March 1983).

**§1957. Income Eligibility and Benefit Level**

A. For households containing a member age 60 or over or who receives SSI under Title XVI of the Social Security Act or disability and blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act, income eligibility shall be based on net income.

B. For all other households, income eligibility shall be based on gross income.

C. All eligible one and two-person households shall receive a minimum monthly allotment of $10 except when proration of initial month's benefits occurs. All eligible households whose benefits are prorated to $1, $3, or $5, and eligible households with three or more members which are entitled to $1, $3, and $5, allotments shall receive allotments of $2, $4, and $6, respectively to correspond with current coupon denominations. For those eligible households with three or more members, which are entitled to no benefits, the eligibility worker shall deny the household's participation, on the grounds that its net income exceeds the level below which benefits are issued.

D. The level of benefits for all eligible households shall be based upon net monthly income.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982).

**§1959. Thrifty Food Plan**

A. Effective April 1, 1982, the Thrifty Food Plan amounts shall be adjusted to the nearest dollar increment to reflect changes in the Consumer Price Index for all Urban Consumers (CPI-U) for the cost of food, for the 15 months ending on December 31, 1981.

B. Effective July 1, 1983, the Thrifty Food plan amounts shall be adjusted to the nearest dollar amount to reflect changes in the CPI-U for the cost of food, for the 15 months ending March 31, 1983.

C. Effective October 1, 1984, the Thrifty Food Plan amounts shall be adjusted to the nearest dollar increment to reflect changes in the CPI-U for the cost of food, for the 15 months ending June 30, 1984.

D. Effective October 1, 1985, and each October 1 thereafter, the Thrifty Food Plan amounts shall be adjusted to the nearest dollar increment to reflect changes in the CPI-U for the cost of food, for the 12 months ending on the preceding June 30.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982).

**§1961. Adjustment of Standard Deduction**

A. Effective July 1, 1983, the standard deductions shall be adjusted to reflect changes in the Consumer Price Index for all urban consumers (CPI-U) for items other than food and the homeownership component of shelter costs for the 15 months ending March 31, 1983.

B. Effective October 1, 1984, the standard deductions shall be adjusted to reflect changes in the CPI-U for items other than food and the homeownership component of shelter costs for the 15 months ending June 30, 1984.

C. Effective October 1, 1985, and each October 1 thereafter, the standard deductions shall be adjusted to reflect changes in the CPI-U for items other than food and the homeownership component of shelter costs for the 12 months ending the previous June 30.

D. These adjustments shall be based on the previous unrounded numbers, and the result rounded to the nearest $5 increment.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982).

**§1965. Standard Utility Allowance (SUA)**

A. Households which incur heating or cooling costs separate and apart from their rent or mortgage use a mandatory single Standard Utility Allowance (SUA) in the determination of shelter costs and deductions. To be qualified, the household must be billed on a regular basis for heating or cooling costs. However, during the heating season a household that is billed less often than monthly, but

is eligible to use the standard allowance, may continue to use the standard allowance between billing months. The SUA is available to those households receiving energy assistance payments or reimbursements but who continue to incur heating or cooling costs that exceed the payment during any month covered by the certification period.

B. Any household living in a housing unit which has central utility meters and which charges the household for excess utility costs only, shall not be permitted to use the SUA.

C. Where the household shares a residence and utility costs with other individuals, the SUA shall be divided equally among the parties which contribute to meeting the utility costs. In such cases, the household shall only be permitted to use its prorated share of the standard allowance.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:51551 et seq., 7 CFR 272 and 273.9, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:64 (February 1983), amended by the Department of Social Services, Office of Family Support, LR 20:860 (August 1994), LR 20:991 (September 1994), LR 20:1363 (December 1994), LR 21:188 (February 1995), LR 23:82 (January 1997), LR 24:108 (January 1998).

### §1966. Basic Utility Allowance (BUA)

A. Households which do not incur heating or cooling costs separate and apart from their rent or mortgage use a mandatory single Basic Utility Allowance (BUA). To be eligible, a household must be billed on a regular basis for utility costs. Any household living in a housing unit which has central utility meters and which charges the household for excess utility costs only shall use the BUA. When the household shares a residence and utility costs with other individuals, the BUA shall be divided equally among the parties which contribute to meeting the utility costs. In such cases, the household should only be permitted to use its prorated share of the BUA.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:108 (January 1998).

### §1967. Setting the Standard Utility Allowance and the Basic Utility Allowance

A. Effective October 1, 1985, and each October 1 thereafter, the annualized standard utility allowance in the Food Stamp Program shall be adjusted to reflect changes in the cost of utilities.

B. The Office of Family Security will conduct an annual statewide survey of utility companies to determine the average monthly cost of utilities. This methodology is subject to approval by the United States Department of Agriculture Food and Nutrition Service. The standard allowance developed shall also be submitted to USDA FNS for approval.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:864 (September 1985), repromulgated by the Department of Social Services, Office of Family Support, LR 24:108 (January 1998).

### §1969. Standard Telephone Allowance

A. Effective November 1, 1985, all food stamp households who claim actual utility costs rather than the standard utility allowance shall use a mandatory standard telephone allowance of $17. Each October 1 thereafter, the mandatory standard telephone allowance shall be adjusted to reflect changes in the cost of basic telephone services.

B. The Office of Family Security will conduct an annual statewide survey of telephone companies to determine the average subject to approval by the United States Department of Agriculture Food and Nutrition Service. The standard allowance developed shall also be submitted to USDA FNS for approval.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9(d)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1079 (November 1985).

### §1971. Farm Self-Employment Income

A. Effective March 27, 1986, if the cost of producing self-employment income exceeds the income derived from self-employment as a farmer, such losses will be offset against other countable income in a household. To be considered a self-employed farmer, the farmer must receive or anticipate receiving annual gross proceeds of $1,000 or more from the farming enterprise. The same base that is used to determine income from self-employed farm operations shall be used to determine any net loss. Losses should be prorated over the year in a manner comparable to that used to prorate farm self-employment income.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:6511 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:222 (April 1986), LR 12:366 (June 1986).

### §1973. Diverted Income

A. Effective April 1, 1987, assistance payable for living expenses by Public Assistance (PA) or local General Assistance (GA) programs, or other basic assistance programs comparable to GA as determined by the secretary of USDA shall be with certain exceptions, considered income to a household if diverted to a third party on behalf of the household.

B. General Assistance (GA) is defined as cash or another form of assistance excluding in-kind assistance, financed by state or local funds as part of a program which provides assistance to cover living expenses or other basic needs intended to promote the health or well-being of recipients.

C. A PA or GA payment which is not made directly to the household, but paid to a third party on behalf of the household to pay a household expense, shall be considered

an excludable vendor payment and not counted as income to the household if such PA or GA payment is for:

1. medical assistance;

2. child care assistance;

3. energy assistance, or

4. housing assistance payments made to a third party on behalf of a household residing in temporary housing, if the temporary housing unit provided for the household as a result of such assistance lacks facilities for the preparation and cooking of hot meals or the refrigerated storage of food for home consumption, provided that such vendor payments shall be excluded under this provision if paid to the housing provider during the period beginning October 20, 1987 and ending September 30, 1989.

D. Assistance financed by state or local funds which is provided over and above the normal PA or GA grant or payment, or is not normally provided as part of such grant or payment would be considered emergency or special assistance and excluded as income if provided to a third party on behalf of the household.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:36390 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:738 (December 1987), LR 14:150 (March 1988).

### §1975. Earned Income Tax Credits (EITC)

A. Advance payment of EITC will not be counted as income for food stamp purposes. However, the amount will be counted toward the household's resources just as EITC payments made as tax refunds are.

B. Exclude EITC as resources for 12 months from receipt if the recipient is participating in the Food Stamp Program when the EITC is received and continuously participates for the 12 months following receipt.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.9 and P.L. 103-66.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:74 (February 1989), amended LR 15:393 (May 1989), amended by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:188 (February 1995).

### §1977. Cash Charitable Contributions

A. Effective immediately, cash charitable contributions based on need, which are received from private nonprofit charitable organizations, not in excess of $300 total per federal fiscal year quarter, shall be excluded as food stamp household income.

B. Affected households are entitled to the income exclusion beginning with the second federal fiscal year quarter of 1988 (January, 1988 through March, 1988) but not prior to February 1, 1988. Consequently a household which received $100 in January, 1988, another $100 in February and $250 in March from private nonprofit charitable organizations would be entitled to an income exclusion for the $100 received in February and $200 of the $250 received in March for a total income exclusion of $300 in that quarter.

C. Affected households which were denied benefits because the household's eligibility or benefit calculation during the second federal fiscal year quarter of 1988 (but not prior to February 1, 1988) did not include this income exclusion shall be entitled to restored benefits, if otherwise eligible, at the time of recertification, whenever the household requests a review of its case, or when the OED otherwise becomes aware that a review of a particular case is needed. Restored benefits shall be paid to February 1, 1988, or the date of the food stamp application, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with F.R. 53:22291 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Eligibility Determinations, LR 14:521 (August 1988), LR 14:708 (October 1988).

### §1978. Income Decreased for Failure to Comply with Another Program

A. Effective November 27, 1996, an increase in food stamp benefits is prohibited when a household's benefit from another federal, state or local means-tested assistance program is decreased (reduced, suspended or terminated) due to failure to comply with a requirement of the program that imposed the benefit decrease.

B. The procedures for determining food stamp benefits when there is such a decrease in income are as follows:

1. When a recipient's benefits under a federal, state, or local means-tested program (such as but not limited to SSI or FITAP) is decreased due to noncompliance, the Food Stamp Program identifies that portion of the decrease which is a penalty.

2. OFS calculates the food stamp benefits using the benefit amount which would be issued by that program if a penalty had not decreased the recipient's benefit.

AUTHORITY NOTE: Promulgated in accordance with F.R. 61:19155 et seq., 7 CFR 272.1, 273.9 and 273.11.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:1141 (November 1996).

### §1979. Income

A. Effective April 1, 1987, earnings to individuals who are participating in on-the-job training programs under the Job Training Partnership Act shall be counted as income. This provision does not apply to household members under 19 years of age who are under the parental control of another adult member.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:26937 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:429 (August 1987), LR 13:656 (November 1987).

### §1980. Income Exclusions

A. Payments or allowances to provide energy assistance under any federal law, including the Department of Housing

and Urban Development and the Farmers Home Administration, except that provided under Title IV-A, are excluded as income, and the expense is not deductible.

B. Earnings of an elementary or secondary student through age 17 who is a member of the household are excluded.

AUTHORITY NOTE: Promulgated in accordance with P.L. 103-66, 7 CFR 273.9 (c)(11) and P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), amended LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:82 (January 1997).

### §1981. Child Support Deduction

A. Legally obligated child support payments to, or for, an individual living outside of the household must be included in the deductions from the total monthly income when a budget for food stamp eligibility is determined. Households that fail or refuse to obtain necessary verification of their legal obligation or of their child support payments will have their eligibility and benefit level determined without consideration of a child support deduction.

AUTHORITY NOTE: Promulgated in accordance with F.R. 59:63265 et seq., 7 CFR 271, 273, 275.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 21:958 (September 1995).

### §1983. Income Deductions and Resource Limits

A. In determining eligibility and benefit levels, the household is allowed deductions for certain costs.

1. The earned income deduction is 20 percent of total countable gross earnings. The earned income deduction is not allowed on any portion of income earned under a work supplementation or support program that is attributable to public assistance.

2. The maximum shelter deduction is $300 for households which do not include a member who is elderly or disabled. Effective March 1, 2001, a maximum shelter deduction of $340 shall be allowed at certification, recertification, or at the time of other case action. For fiscal year 2002 and each subsequent fiscal year, the maximum shelter deduction will be computed based on the amount for the preceding fiscal year, adjusted to reflect changes in the Consumer Price Index for All Urban Consumers for the 12-month period ending the preceding November 30.

3. The maximum dependent care deduction is $200 per month for each child under 2 years of age and $175 for each other dependent.

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

B. The resource limit for a household is $2,000, and the resource limit for a household which includes at least one elderly member is $3,000.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:11009 et seq. and 51:11086 et seq., P.L. 99-500, P.L. 103-66, 7 CFR 273.9 and 273.10 (d) (1) (i), P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:285 (May 1986), amended LR 12:423 (July 1986), LR 12:824 (December 1986), LR 13:181 (March 1987), LR 14:684 (October 1988), LR 15:14 (January 1989), amended by the Department of Social Services, Office of Family Support, LR 19:303 (March 1993), LR 19:905 (July 1993), LR 20:780 (July 1994), LR 20:990 (September 1994), LR 20:1363 (December 1994), LR 21:186 (February 1995), LR 23:82 (January 1997), LR 27:867 (June 2001), LR 27:1934 (November 2001).

## Subchapter J. Determining Household Eligibility and Benefit Levels

### §1985. Determining Eligibility

A. Effective March 1, 1983, the Food Stamp Program's State Manual has been revised to reflect these mandated changes:

1. Verification shall be required, prior to certification or recertification of the household, of all factors of eligibility which are determined questionable and affect the household's eligibility and benefit level. The definition of questionable information is amended to include any information deemed by the eligibility worker to be inconsistent as established by the agency. Questionable information could be information that is inconsistent with other information on the application, or inconsistent with other information received by the agency. It could also be any information that seems inconsistent with the household's situation and raises reasonable doubt about certain factors of eligibility. The eligibility worker may not use these procedures to require additional verification based on race, religion, ethnic background, or national origin. The eligibility worker shall not target groups such as migrants and American Indians for additional verification.

2. Any member whose citizenship is questionable shall be declared ineligible to participate until proof of U.S. citizenship is obtained. Until proof of U.S. citizenship is obtained, the member whose citizenship is in question will have his or her income, less a pro rata share, and all of his or her resources considered available to any remaining household members.

3. Collateral contacts will be selected if the household fails to designate one or designates one which is unacceptable to the agency. If the agency designates a collateral contact, the agency shall not initiate contact with the designated collateral without providing prior written or oral notice to the household at the time of this notice, the agency shall inform the household that it has the following options: (1) consent to the contact, (2) provide acceptable verification in another form, or (3) withdraw its application. If the household refuses to choose one of these options, its application shall be denied in accordance with the normal procedures for failure to verify information.

4. Households participating or applying for participation in the Food Stamp Program shall provide the agency with the Social Security Number (SSN) of each household member, or apply for one through the agency before certification as a condition of eligibility. The member that has applied for an SSN shall be allowed to participate for 30 days from the first day of the first full month of participation while awaiting receipt of the SSN. If the household member(s) can show good cause why an SSN has not been obtained in a timely manner, they shall be allowed to participate for an additional 30 days. In determining if good cause exists for failure to comply with this requirement, the Office of Family Security shall consider information from the household member, the Social Security Administration, and its own information. Documentary evidence or collateral information that the household has applied for the number or made every effort to supply SSA with the necessary information shall be considered good cause for not complying with this requirement.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:53309 et seq., 7 CFR 271, 272, 273.10, 274.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:64 (February 1983), amended by the Department of Social Services, Office of Family Support, LR 24:1783 (September 1998).

**§1987. Categorical Eligibility for Certain Recipients**

A. Households Considered Categorically Eligible

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

2. "Recipient" includes an individual determined eligible for TANF or SSI benefits, but the benefits have not yet been paid.

3. "Recipient" shall also include a person determined eligible to receive zero benefits, i.e., a person whose benefits are being recouped or a TANF recipient whose benefits are less than $10 and therefore does not receive any cash benefits.

4. A household shall not be considered categorically eligible if:

a. any member of that household is disqualified for an intentional program violation;

b. the household is disqualified for failure to comply with the work registration requirements.

5. The following persons shall not be considered a member of a household when determining categorical eligibility:

a. an ineligible alien;

b. an ineligible student;

c. an institutionalized person.

6. Households which are categorically eligible are considered to have met the following food stamp eligibility factors without additional verification:

a. resources;

b. social security numbers;

c. sponsored alien information;

d. residency.

7. These households also do not have to meet the gross and net income limits, but verification of income not counted for TANF/SSI is required (e.g. educational assistance). If questionable, the factors used to determine categorical eligibility shall be verified.

8. Categorically eligible households must meet all food stamp eligibility factors except as outlined above.

9. Changes reported by categorically-eligible Food Stamp households shall be handled according to established procedures except in the areas of resources or other categorical eligibility factors.

10. Benefits for categorically-eligible households shall be based on net income as for any other household. One and two person households will receive a minimum benefit of $10. Households of three or more shall be denied if net income exceeds the level at which benefits are issued.

B. Application Processing

1. Households in which all members are applying for public assistance shall continue to be processed according to joint processing procedures. Until a determination is made on the public assistance application, the household's food stamp eligibility and benefit level shall be based on food stamp eligibility criteria. However, the local office shall postpone denying a potentially categorically eligible household until the thirtieth day in case the household is determined eligible to receive public assistance benefits.

2. The household shall be informed on the notice of denial that it is required to notify the local office if its FITAP or SSI benefits are approved.

3. If the household is later determined eligible to receive public assistance benefits after the thirtieth day and is otherwise categorically eligible, benefits shall be provided using the original application along with other pertinent information occurring subsequent to the application.

4. The local office shall not reinterview the household but shall use any available information to update the application and/or make mail or phone contact with the household or authorized representative to determine any changes in circumstances. Any changes shall be initialed and the updated application re-signed by the authorized representative or authorized household member.

5. If eligibility for public assistance is determined within the 30-day food stamp processing time, benefits shall be provided back to the date of application. If eligibility for public assistance is determined after the food stamp application is denied, benefits for the initial month shall be

prorated from the effective date of the public assistance certification or the date of the food stamp application, whichever is later.

C. Certified households which become categorically eligible due to receipt of SSI benefits shall be eligible for the medical and uncapped shelter deductions from the beginning of the period for which the SSI benefits are authorized or the date of the food stamp application, whichever is later. These additional benefits shall be provided through restoration.

D. For food stamp purposes, Refugee Cash Assistance (RCA) benefits are not considered public assistance and, therefore, an RCA household is not categorically eligible.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274; F.R. 56:63612-63613.

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

### §1988. Eligibility Disqualification of Certain Recipients

A. Fleeing felons and probation/parole violators are ineligible for benefits.

B. Effective May 7, 1998, an individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C. 802[6]) shall be disqualified from receiving food stamp benefits for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:233.1, P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), amended LR 23:590 (May 1997), LR 23:1710 (December 1997), LR 24:1783 (September 1998).

### §1991. Initial Month's Benefits

A. Initial month means either the first month for which an allotment is issued to a household, or the first month for which an allotment is issued to a household following any period during which the household was not certified for participation in the Food Stamp Program.

B. A household's benefit level for the initial month of certification will be based on the day of the month it applies for benefits. Using a 30-day calendar or fiscal month, households shall receive benefits prorated from the day of application to the end of the month. A household applying on the thirty-first of a month will be treated as though they applied on the thirtieth of the month. If the prorated allotment results in an amount of $1, $3, or $5, the allotment shall be rounded to $2, $4, or $6.

C. Households who have applied for initial month's benefits after the fifteenth of the month, completed the application, provided all required verification, and have been determined eligible to receive benefits for the initial month of application and the next subsequent month shall receive their prorated allotment for the initial month of application and their first full month's allotment at the same time. In determining initial month benefits, the result of the proration will be rounded down to the nearest lower dollar increment. If the calculation results in an allotment of less than $10, then no benefits will be issued.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.10, P.L. 103-66, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security LR 8:9 (January 1982), amended LR 9:130 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:186 (February 1995), LR 23:83 (January 1997).

### §1993. Replacement of Benefits

A. Replacement issuances shall be provided only if a household timely reports a loss (food purchased with food stamp benefits has been destroyed in a household misfortune) and executes the proper affidavit. Replacement issuances shall be provided in the amount of the loss to the household, up to a maximum of one month's allotment, unless the issuance includes restored benefits which shall be replaced up to their full value.

B. If the signed statement or affidavit is not received by the agency within 10 days of the date of report, no replacement shall be made. If the 10th day falls on a weekend or holiday, and the statement is received the day after the weekend or holiday, the agency shall consider the statement timely received. Replacement issuances shall be provided to households within 10 days after report of loss or within two working days of receiving the signed affidavit, whichever date is later.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:6989 et seq., 7 CFR 273.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:629 (August 1989), amended by the Department of Social Services, Office of Family Support, LR 19:783 (June 1993), LR 24:1783 (September 1998).

## Subchapter K. Action on Households with Special Circumstances

### §1995. Sponsored Aliens

A. The full amount of income and resources of an alien's sponsor and the sponsor's spouse are counted in determining the eligibility and allotment level of a sponsored alien until the alien becomes a citizen or has worked 40 qualifying quarters of Social Security coverage. These provisions do

not apply to battered aliens, their children, or the alien parent of a battered child.

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

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

### §1997. Drug and Alcohol Treatment Centers

A. Residents of publicly operated community mental health centers which provide the same type of residential programs for alcoholic or drug rehabilitation as private, nonprofit institutions will be considered individual households and, if eligible, may participate in the Food Stamp Program.

B. Drug addicts or alcoholics and their children who are residents in an approved public or private, drug or alcohol treatment center program may participate in the Food Stamp Program.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:6511 et seq., 7 CFR 273.11, P.L. 103-66.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:366 (June 1986), amended by the Department of Social Services, Office of Family Support, LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:189 (February 1995).

## Subchapter L. Reserved (for Reporting Changes)

## Subchapter M. Notice of Adverse Action

### §1999. Reduction or Termination of Benefits

A. Effective June 1, 1983, the Department of Health and Human Resources, Office of Family Security, hereinafter referred to as the "agency," will take immediate action to reduce or terminate a household's benefits under the following conditions.

1. the reported changes on which the adverse action is based must come from the household;

2. the household must report the information in writing; and

3. the reported information must clearly require the agency to reduce or terminate benefits. The household will be sent written notice of adverse action no later than the date on which it is scheduled to receive its allotment;

4. the household will retain its right to a fair hearing;

5. the household retains its right to continued benefits by requesting a fair hearing within the time period provided by the notice of adverse action, which will be at least 10 days from the date the notice is sent;

6. the agency will continue the household's previous benefit level, if required, within five working days of the household's request for a fair hearing.

B. A Notice of Adverse Action (NOAA) will be sent instead of a Notice of Expiration of the certification period when the agency becomes aware of a change in the household's circumstances and the household has not furnished verification of the change, requested more time to obtain the information, or requested the agency's assistance in obtaining the required verification. The NOAA will advise the household of the specific information which must be provided by the last day of the month following the month the notice is sent so that the agency can determine the effect of the change in the household's eligibility and benefit level. If the household provides the information before the adverse action period expires and continues to be eligible, its participation will continue without reapplication. If the verification is not provided in this period of time, benefits will be terminated and the household will be required to reapply. The time frames involved will be the same as if the certification period is shortened.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:55903 et seq., 7 CFR 273.13, 7 CFR 273.12(f)(3).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:324 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 24:108 (January 1998).

## Subchapter N. Recertification

### §2003. Recertification of Supplemental Security Income Households

A. Supplemental Security Income households which have received a food stamp notice of expiration shall be entitled to make a timely application for food stamp recertification at the SSA office.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., 7 CFR 273.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982).

## Subchapter O. Reserved (for Fair Hearings)

## Subchapter P. Recovery of Over-Issued Food Stamp Benefits

### §2005. Claims Against Households

A. All adult household members are jointly and severally liable for the value of any over-issuance of benefits to the household. This is true regardless of whether the over-issuance resulted from inadvertent error, an administrative error or an intentional program violation.

B. Action will not be taken to recover claims which are less than:

1. $35 for inadvertent household error for participating households;

2. $100 for administrative error for participating households; and

3. $250 for non-participating households.

These thresholds do not apply to claims which are determined to be the result of intentional program violation or errors which are discovered in a quality control review.

AUTHORITY NOTE: Promulgated in accordance with F.R. 48:6837 et seq., P.L.97-35, 97-253, 101-624 '1746, and 102-237 '911, 7 CFR 272, 273 , 276 and 277, P.L.103-66, P.L.104-193, P.L. 104-134, 7 CFR 3 Subpart B.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:323 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 18:1133 (October 1992), LR 20:391 (April 1994), LR 20:780 (July 1994), LR 20:899 (August 1994), LR 20:990 (September 1994), LR 20:1362 (December 1994), LR 21:189 (February 1995), LR 22:584 (July 1996), LR 23:83 (January 1997), LR 23:1710 (December 1997), LR 25:2326 (December 1998), LR 27:1017 (July 2001).

**§2007. Penalties**

A. The Food Stamp Program shall maintain provisions relating to the disqualification penalties for intentional program violations. These provisions are aimed at deterring Food Stamp Program abuse and improving recovery of overpayments.

B. The basis for disqualification includes the intentional making of false or misleading statements, misrepresentations, or the concealment or withholding of facts, as well as the commission of any act that constitutes a violation of any state food stamp statute, and the use of food stamps in certain illegal purchases. The program will not increase the benefits to the household of a disqualified person because of the disqualification.

1. Mandatory disqualification periods of one year for the first offense, two years for the second offense, and permanently for the third offense will be imposed against any individual found to have committed an intentional program violation, regardless of whether the determination was arrived at administratively or through a court of law.

2. Individuals will be disqualified for two years for a first finding by a court that the individual used or received food stamps in a transaction involving the sale of a controlled substance, and permanently for a second such finding. Permanent disqualification will also result for the first finding by a court that an individual used or received food stamps in a transaction involving the sale of firearms, ammunition or explosives with food stamps.

3. An individual convicted of trafficking food stamp benefits of $500 or more shall be permanently disqualified.

4. An individual shall be ineligible to participate for ten years if found to have made a fraudulent statement or representation with respect to identity or residence in order to receive multiple benefits simultaneously.

C. A loss of benefits penalty shall be imposed on those food stamp recipients who fail to report earned income in a timely manner. When determining the amount of benefits the household should have received, the Office of Family Support shall not apply the 20 percent earned income deduction to the income of the household which did not timely report. By doing this, the household that benefited from the failure to timely report is penalized since the amount it has to repay in overissuance will be increased. This provision shall be applied to allotments issued for October 1996 and all allotments issued for subsequent months.

AUTHORITY NOTE: Promulgated in accordance with F.R. 52:36390 et seq., 7CFR 273.18; P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 3:738 (December 1987), LR 14:150 (March 1988), amended by the Department of Social Services, Office of Family Support, LR 23:84 (January 1997), LR 27:1017 (July 2001).

**§2009. Collection Methods**

A. The agency is required to collect any over-issuance as well as claims for trafficking. Collection of over-issued benefits may be accomplished using various methods including, but not limited to, the following methods:

1. reducing future allotments unless a repayment schedule has been established. The amount by which the agency can reduce the household's monthly allotment in the collection of over-issuances which are the result of intentional program violation is limited to 20 percent of the household's entitlement or $20 per month, whichever is greater, and 10 percent of the allotment or $10, whichever is greater, for all other over-issuances;

2. return of benefits;

3. cash repayment;

4. referral of delinquent food stamp claims to the Department of the Treasury for collection through the Treasury Offset Program. The Treasury Offset Program is the withholding of federal income tax returns, federal salaries or other funds payable by the federal government which may include, but not be limited to, federal retirement payments, military retirement, contractor/vendor payments, Railroad Retirement and Social Security payments. The Financial Management Service of the Treasury Department will charge an administrative fee for all collection services, and this fee will be added to the claim and deducted with any federal offset; or

5. withholding of unemployment compensation benefits.

B. The agency will not compromise claims, that is, forgive all or a portion of a debt. Claims may be terminated or written-off in accordance with federal policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953B., 7 CFR 273.18.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:486 (August 1986), LR 12:768 (November 1986), LR 27:1018 (July 2001), LR 27:1934 (November 2001).

# Subchapter Q. Reserved (for Restoration of Lost Benefits)

# Subchapter R. Semi-Annual Reporting

### §2013. Semi-Annual Reporting

A. All households with earned income shall submit a reporting form to the agency on a semi-annual basis with the following exceptions:

1. migrant or seasonal farm worker households;

2. households in which all members are homeless.

B. Households subject to semi-annual reporting will be required to report only changes in gross monthly income which exceed 130 percent of the monthly poverty income guideline for the household size.

C. Households required to semi-annually report will be assigned a certification period of 12 months.

D. All households in semi-annual reporting are required to

1. timely provide a completed semi-annual report form and all necessary verification; and

2. report current household circumstances and changes which the household knows will occur.

E. Failure to provide a complete semi-annual report form and verification will result in case closure.

F. Benefits will be determined prospectively based on verified circumstances.

G. Any change in benefits as a result of semi-annual reporting will be effective the month following the month in which the semi-annual report was required.

H. Effective August 7, 2001, other changes will be processed in accordance with §1999, Reduction or Termination of Benefits.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.12(a).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:1633 (August 2000), amended LR 27:867 (June 2001), LR 28:103 (January 2002).

# Title 67
# SOCIAL SERVICES
## Part III. Family Support
## Subpart 4. Support Enforcement Services

## Chapter 23. Single State Agency Organization

### Subchapter A. Designation, Authority, Organization and Staffing

**§2301. Authority**

A. Support Enforcement Services (SES) is established in accordance with U.S.C.A., Title 42, Section 651 et seq. and R.S. 46:236.1 et seq.

AUTHORITY NOTE: Promulgated in accordance with U.S.C.A., Title 42, Section 651 et seq. and R.S. 46:236.1 et seq.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:1226 (December 1991).

**§2303. State Plan**

A. The Louisiana Health and Human Resources Administration, Division of Youth Services, first adopted the State Plan for Child Support Collection and Establishment of Paternity effective August 1, 1975. Support Enforcement Services is now the single-state agency operating under the federally-approved State Plan for Child Support Enforcement Services.

B. The State Plan is available for review at the Office of Family Support Planning Section, A.Z. Young Building, 755 Third Street, Room 321, Baton Rouge, LA 70802.

AUTHORITY NOTE: Promulgated in accordance with Title IV-D of the Social Security Act.
HISTORICAL NOTE: Promulgated by the Louisiana Health and Human Resources Administration, Division of Youth Services, LR 10:435 (August 1975), LR 11:495 (November 1975), amended by the Department of Social Services, Office of Family Support, LR 26:2830 (December 2000).

**§2304. Expedited Administrative Process**

A. SES will have administrative authority to order the following activities:

1. order genetic testing;

2. subpoena financial or other information needed to establish, modify, or enforce orders, and impose penalties for failure to respond to such subpoenas;

3. direct the noncustodial parent to make his payments to the state;

4. order income withholding;

5. initiate liens;

6. freeze and seize assets;

7. increase the monthly support amounts for the liquidation of arrears;

8. transfer cases between jurisdictions;

9. establish paternity;

10. establish support orders; and

11. modify support orders.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:747 (June 1997), amended LR 26:2830 (December 2000).

**§2305. Support Enforcement Services Agent**

A. The power to administer oaths and pass authentic acts in connection with any documents relative to obtaining support for dependent children from their absent parents is hereby granted to the Support Enforcement Services agents.

B. A Support Enforcement Services agent is defined as any employee of the division whose duty it is to enforce support obligations owed by absent parents to their family and children, to locate absent parents, or to establish paternity and obtain family and child support.

C. It is expressly forbidden for the agent to charge any fee for any oath which he takes or for any authentic act which he passes by virtue of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:236.1.
HISTORICAL NOTE: Promulgated by the Health and Human Resources Administration, Division of Youth Services, LR 2:274 (September 1976).

## Chapter 25. Support Enforcement

### Subchapter A. Agency Cooperation

Editor's Note: See §1239, Assignment of Support Rights and Cooperation with SES, and §1285, IV-D Recovery of Support Payments.

**§2507. IV-A Agency Treatment of Support Payments**

A. The IV-A Agency shall treat support payments received by FITAP applicants and recipients in the month of certification, prior to authorization of the first payment, as income in determining both eligibility and the amount of assistance to be provided by the agency. Such support payments shall not be treated as income in the month of certification only when remitted to the IV-D agency by the

recipient. Under this rule an overpayment of assistance shall occur in the month of certification when a support payment is received and retained by an applicant or recipient and not counted by the IV-A agency in determining either eligibility or the amount of assistance to be provided through FITAP payment.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 233.20(a)(3)(v).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:62 (February 1983), amended LR 10:89 (February 1984).

## Subchapter B. Support Obligation

### §2509. Income Assignment

A. In all new or modified child support orders enforced by SES, the court shall order an immediate income assignment unless a written agreement exists between the parties for an alternate arrangement, or the court finds good cause not to require an immediate income assignment. Employers shall remit any amounts withheld through income assignment within seven days.

B. In any case in which SES is providing services, if not previously subject to income assignment, the order shall become subject to withholding, if arrearages occur, without the need for a judicial or administrative hearing. Orders enforced by SES will be subject to withholding without advance notice to the obligor. The payor of income is notified to withhold an amount for current support plus an additional amount, determined by SES toward any arrears owed. The amount subject to be withheld cannot exceed the percentage of disposable income as defined in R.S. 13:3881 or the federal wage garnishment.

C. The forms of income available for assignment include any singular or periodic payment to an individual regardless of source, including but not limited to, wages, salary, interest, commission, independent contractor compensation, disability income, unemployment compensation, worker's compensation, bonuses, judgments, settlements, annuity and retirement benefits, and any other payments made by any person, private entity, federal, or state government, any unit of local government, school district, or any entity created by public act.

D. The payor of income may deduct a $5 processing fee from the noncustodial parent's income each pay period during which the income assignment order is in effect. If the payor of income discharges, disciplines, or otherwise penalizes a person ordered to pay support because of the duty to withhold income, the payor of income may be liable for the accumulated amount or be subjected to other sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:236.3 and 45 CFR 303.100, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1083 (November 1985), amended by the Department of Social Services, Office of Eligibility Determinations, LR 15:809 (October 1989), LR 16:33 (January 1990), amended by the Office of Family Support, LR 23:748 (June 1997), LR 26:356 (February 2000).

## Subchapter C. Formula for Support Obligation

### §2511. Child Support Award Guidelines

A. The child support award guidelines established in R.S. 9:315 et seq. shall be used in any proceeding to establish or modify child support orders. There shall be a rebuttable presumption that the amount of the child support established by use of the guidelines is the proper amount of child support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:315 et seq., 45 CFR 302.56.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:497 (September 1987), amended by the Department of Social Services, Office of Eligibility Determinations, LR 15:807 (October 1989), LR 16:34 (January 1990), amended by the Office of Family Support, LR 24:957 (May 1998).

### §2512. Adjustment of Child Support Orders

A. SES will send a notice every three years advising both parties to the support order of the right to request a review. If either party requests a review, SES will conduct the review and, if appropriate, judicially adjust the order in accordance with the guidelines if the amount of the child support in the order differs from the amount of the child support award in accordance with the guidelines.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, '351 and R.S. 9:311(C).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19:1178 (September 1993), amended LR 23:748 (June 1997), LR 24:957 (May 1998).

## Subchapter D. Collection and Distribution of Support Payments

### §2513. Collection of Spousal Support

A. Effective January 1, 1986, the Department of Health and Human Resources, Office of Family Security, shall implement the collection of spousal support.

B. In order to qualify for spousal support, the following must be met by the payee:

1. a prior child support order has been established;

2. the child and spouse are living in the same household;

3. the child support obligation established is being enforced under the state's IV-D Plan.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.17 and 45 CFR 302.31.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1152 (December 1985).

### §2514. Distribution of Child Support Collections

A. Effective October 2, 1998 the agency will distribute child support collections in the following manner.

1. In cases in which the applicant/recipient (AR) currently receives Family Independence Temporary Assistance Program (FITAP) benefits, collections received in a month will be retained by the state to reimburse previous and current assistance amounts. If the collection amount exceeds the amount of unreimbursed grant, the excess will be refunded to the AR up to the current arrearage amount.

2. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections received through any means other than IRS intercepts will be distributed as follows:

a. the AR shall receive an amount equal to the court-ordered monthly obligation and any arrears owed to the AR that accrued in a non-assistance period;

b. amounts owed to the state;

c. any arrears that accrued during assistance that exceed the unreimbursed grant will be paid to the AR.

3. In cases in which the AR never received assistance, or the AR previously received FITAP or FITAP and no amount is owed to the state, all collections will be refunded to the AR.

4. In IV-E Foster Care cases, all amounts collected are sent to the IV-E Agency for appropriate distribution.

5. In cases in which the AR previously received AFDC or FITAP, and there are amounts owed to the state, collections received through IRS intercepts will be distributed as follows:

a. amounts owed to the state; and

b. amounts owed to the AR.

B. Any collections received through income assignments are subject to refund to the noncustodial parent based on federal and state laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 105-33, and OCSE-AT-98-24.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:304 (March 1997), amended LR 24:703 (April 1998), LR 25:320 (February 1999).

### §2515. IRS Collection Fee for Non-FITAP Applicants

A. Effective 3/1/86 the Department of Health and Human Resources, Office of Family Security will began charging an application fee of $122.50 to non-FITAP payees who apply for full-service Internal Revenue Services (IRS) Collection. IRS charges the Support Enforcement Program $122.50 for each full-service case referred to them whether or not collection is successful. Full service IRS eligibility and the agency agreement to reimburse the secretary of the treasury for collection costs are outlined in 45 CFR 303.71.

B. Cases are eligible for IRS certification if 1) there is a court or administrative order for support, 2) the amount to be collected under the support order is at least $750 in arrears, 3) at least six months have elapsed since the last IRS full service referral, 4) the IV-D agency, the client, or the client's representative shall have made reasonable efforts to collect the support through the state's own collection mechanisms and 5) there is an application for services specified under 45 CFR 302.33.

C. In establishing that reasonable collection efforts have been made, the agency is required to file a statement of collection actions taken, why they failed, and why further state action would be unproductive.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.71 and 45 CFR 302.33.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:115 (February 1986).

### §2516. Recovery of Erroneous Child Support Payments

A. Upon notification that an erroneous payment has been made, the individual will be allowed 30 days to arrange for repayment prior to SES initiating action to withhold up to 10 percent of future support payments collected to recover the loss.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.32, 302.33, 302.51 and 302.70.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:1327 (October 1997).

### §2517. Application Fee for Former FITAP Recipients

A. Effective October 1, 1988, an application fee will be charged to any former FITAP recipient who reapplies for support enforcement services more than 30 days after services are discontinued because of failure to cooperate. An application fee will also be charged to any former FITAP recipient who reapplies for Support Enforcement Services after services are discontinued at the recipient's request. Any child support collected for a former FITAP recipient will be distributed using the same methodology that is used for collections for non-FITAP recipients.

AUTHORITY NOTE: Promulgated in accordance with P.L. 98-378, P.L. 100-203, 45 CFR 302.51 and 45 CFR 302.33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 14:684 (October 1988), LR 15:96 (February 1989).

## Subchapter E. Individuals Not Otherwise Eligible

### §2520. Locate Fee for Non-FITAP Recipients (previous '2525)

A. The IV-D Program shall charge a fee of $10 per request for non-FITAP, locate-only requests. An additional $4 charge shall be made if the Social Security Number of the noncustodial parent is not provided.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.70.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:131 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 24:957 (May 1998).

### §2521. Child Support Application Fee

A. SES will charge an application fee of $25 to each individual who applies for services and does not receive FITAP, MEDICAID, or IV-E Foster Care. A fee is not required if an applicant reapplies for child support through SES within six months after a case is closed, unless the case was closed at the applicant's request or for failure to cooperate.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 302.33.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:115 (February 1986), amended by the Department of Social Services, Office of Family Support, LR 24:957 (May 1998), LR 26:1344 (June 2000).

## Subchapter F. Cooperation with Other States

### §2524. Uniform Interstate Family Support Act

A. Support Enforcement Services will establish, modify and enforce interstate child support obligations under the provisions of the Uniform Interstate Family Support Act (UIFSA).

AUTHORITY NOTE: Promulgated in accordance with P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:958 (May 1998), amended LR 24:1954 (October 1998).

### §2525. Automated Administrative Enforcement in Interstate Cases

A. SES shall use high-volume, automated administrative enforcement on interstate cases to the same extent as used for intrastate cases. This means the use of automatic data processing to search various state data bases, including license records, employment service data, and state new hire registries, to determine whether information is available regarding a parent who owes a child support obligation.

B. SES may transmit a request for assistance to another state by electronic or other means in a case involving the enforcement of a support order. The request shall contain sufficient information to enable the receiving state to compare such information with information in its data base. The request shall constitute a certification of the amount of court-ordered support which is in arrears, and that the state has complied with all procedural due process requirements applicable to the case.

C. SES shall promptly respond to a request made by another state for automated enforcement of a support order. SES shall maintain records of the number of such requests for assistance received, the number of cases for which support was collected in response to such a request, and the amount of support collected.

AUTHORITY NOTE: Promulgated in accordance with P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:958 (May 1998), amended LR 24:1954 (October 1998).

## Subchapter G. Reserved (previously Parent Locator Service)

## Subchapter H. Medical Support Activities

### §2527. Securing and Enforcing Medical Support Obligation

A. Effective May 1, 1986, the Department of Health and Human Resources, Office of Family Security, will secure medical support information and secure and enforce medical support obligations if the individual is a Medicaid applicant or recipient or with the consent of the individual if the individual is not a Medicaid applicant or recipient.

B. Under 45 CFR 306.51, unless the custodial parent and child(ren) have satisfactory health insurance other than Medicaid, IV-D shall petition the court to include health insurance that is available to the absent parent at reasonable cost in new or modified orders for support. Health insurance is considered reasonable in cost if it is employment related or some other group health insurance. A medical support order shall be obtained whether or not health insurance is actually available to the absent parent at the time the order is entered or modification to coverage is immediately possible.

C. The IV-D agency will take steps to enforce the medical support order if health insurance is available to the absent parent at reasonable cost but has not been secured at the time the order is issued. The IV-D agency has discretion in determining the steps necessary to ensure that the absent parent obtains the required medical insurance.

D. SES may enforce court-ordered medical support by means of income assignment.

E. SES shall require the employer of a parent who is court-ordered to provide medical support to enroll and maintain available health insurance on a child. The agency may also submit claims to the insurer and be reimbursed costs paid on behalf of the child.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 306.50, 45 CFR 306.51 and R.S. 46:236.1(B)(5), 46:236.3, 46:236.4, 46:236.8(G).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:245 (April 1986), amended by the Department of Social Services, Office of Family Support, LR 22:118 (February 1996).

## Subchapter I. Tax Refund Offset

### §2529. State Tax Refunds

A. SES will request withholding of any state income tax refunds due to individuals who have child support arrearages in excess of $50. Support payments received through state tax intercept will be distributed in accordance with federal regulations.

B. SES will charge a $4 fee to non-FITAP custodial parents for each successful state tax refund offset of $5 or more. This fee will reimburse SES for intercept fees paid to the Department of Revenue and Taxation. The fee charged for the state tax offset will be deducted from the child support checks issued by SES. The noncustodial parent will be given credit for the amount of the check before the fee deduction.

AUTHORITY NOTE: Promulgated in accordance with RS. 47:299.1 et seq. and 45 CFR 303.102.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:916 (November 1984), amended by the Office of Family Support, LR 17:388 (April 1991), LR 27:81 (January 2001), LR 28:350 (February 2002).

### §2531. Advance Notice of State Tax Refund Interception

A. SES will send an advance notice to each noncustodial parent owing past-due child support whose name is submitted for interception of state tax refund. This notice will advise the noncustodial parent of the right to administrative review if the state tax information is contested.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.102.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1152 (December 1985), amended by the Department of Social Services, Office of Family Support, LR 27:81 (January 2001).

### §2532. Federal Administrative Offsets

A. SES will collect past-due support by referral of appropriate cases to the United States Financial Management Service, Department of the Treasury, effective November 1, 1997. The Financial Management Service is authorized to intercept any funds payable by the federal government, not otherwise exempt from seizure, which are due a noncustodial parent who owes past-due support. Payments may include, but are not limited to, wages, salary, retirement benefits, vendor and expense reimbursement. The debt remains subject to collection until it is paid in full. The noncustodial parent will receive a 30-day advance notice prior to the referral. SES will deduct any processing fee charged by the Financial Management Service from the payment submitted to the custodial parent.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-134 and 3 CFR 13019.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:1326 (October 1997).

### §2533. Federal Tax Refunds

A. SES shall collect past-due support by federal tax refund offset according to federal criteria.

B. SES shall deduct the processing fee imposed by the Internal Revenue Service from each non-FITAP payee's refund check.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.72.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1083 (November 1985), amended by the Department of Social Services, Office of Family Support, LR 24:958 (May 1998).

## Subchapter J. State Lottery Offset

### §2535. Assignment of Lottery Winnings by Support Enforcement Services

A. Effective May 1992, the Department of Social Services, Office of Family Support, shall implement interception of lottery winnings from the Louisiana Lottery Corporation of a delinquent support payor.

B. Support Enforcement Services will send to the Louisiana Lottery Corporation a monthly list of child support payors who are delinquent in their child support payments. If a delinquent support payor wins a lottery prize of $600 or more, the Lottery Corporation will deduct the amount of child support arrears reported by SES from the lottery winnings and then submit the deducted amount to SES.

C. Support Enforcement Services will apply the intercepted winnings amount first to any unpaid monthly obligation and then to any outstanding arrears as of the date the intercepted winnings are posted to the delinquent support payor's child support cases(s).

D. A delinquent support payor with more than one case with outstanding arrears shall have his lottery winnings prorated to each case based on the unpaid monthly obligation plus arrearage due in each case as a percentage of the total unpaid monthly obligations plus arrearage due in all cases.

E. Any intercepted amounts which exceed the amount of unpaid monthly obligation plus arrearage in all cases on the date the intercepted winnings are posted will be refunded to the support payor in a prompt manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9026.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:508 (May 1992).

## Subchapter K. Withholding of Unemployment Compensation

### §2537. Collecting Unemployment Compensation Payments

A. The Department of Health and Human Resources, Office of Family Security, implemented withholding of unemployment benefits as a method of collecting unmet support obligations owed in both FITAP and non-FITAP cases, effective October 1, 1982.

AUTHORITY NOTE: Promulgated in accordance with Section 2335 of P.L. 97-35, R.S. 23:1693, R.S. 23:1600(8), R.S. 46:236.1(n), Omnibus Budget Reconciliation Act of 1981 and 45 CFR 302.65.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:481 (September 1982).

# Subchapter L. Enforcement of Support Obligations

### §2539. Enforcement of Child Support Orders

A. The Department of Health and Human Resources, Office of Family Security, implemented enforcement of support orders, effective October 1, 1982.

B. This action provides for continued enforcement of child support orders in arrears, posting of bond and continued wage withholding at the courts' discretion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:236.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:481 (September 1982).

### §2540. Suspension of License(s) for Nonpayment of Child Support

A. The agency may, under certain circumstances, petition the courts for an order to suspend the license(s) of an individual who is not in compliance with an order for support. The criteria for referral are as follow:

1. cases which have a support order which is being enforced in Louisiana,

2. income assignment is not practical, and

3. the absent parent is at least six months in arrears and not complying with a court order to make periodic payments.

B. The obligor will be given a 30-day advance written notice affording an opportunity to liquidate the arrears or make satisfactory arrangements with the agency prior to the case being referred.

C. In cases in which a noncustodial parent fails to respond to a subpoena or a warrant involving support or paternity matters SES may petition the court to suspend all licenses of the parent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:315.30 through 315.35; P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:118 (February 1996), amended LR 23:748 (June 1997).

### §2541. Information Released to Consumer Reporting Agencies

A. The Support Enforcement Program will report periodically to credit bureaus/consumer reporting agencies, the name of any noncustodial parent (absent parent) who is delinquent in the payment of support, and the amount of overdue support owed by such parent. The Agency shall provide due process to the noncustodial parent providing such parent with advance notice and a reasonable opportunity to contest the accuracy of such information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:56(D), (F)(4), (F)(5), (M) and 45 CFR 303.105, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:1151 (December 1985), amended by the Department of Social Services, Office of Family Support, LR 22:117 (February 1996), LR 23: 210 (February 1997).

### §2542. Voiding of Fraudulent Transfers

A. In cases in which a noncustodial parent transfers income or property to avoid payment of support, SES shall seek to void such transfer.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:748 (June 1997).

### §2543. Cooperative Endeavor in the Collection of Unpaid Child Support

A. In cases in which SES is providing services and the client hires a private attorney, SES may enter into a cooperative agreement with the attorney. The purpose of the agreement is to provide the private attorney with information on the payor so that the attorney can assist the client in collecting child support. Information to be released is as follows:

1. social security number;

2. address;

3. driver's license number;

4. information from hunting licenses;

5. tax records; and

6. information from professional licenses.

B. SES may provide the private attorney a certification that the obligor is in arrears at least six months or that the whereabouts of the obligor have been unknown for longer than six months. Upon review by the court, the court may authorize DSS to enter into a cooperative agreement with the attorney for collecting unpaid child support.

C. Before SES enters into an agreement with the private attorney, the obligee must sign a statement that the attorney is providing services and that he/she wishes the agency to enter into a cooperative agreement. The client may also request that child support payments collected by SES be sent directly to the private attorney.

D. The agreement between SES and the attorney shall be in writing and shall provide for the following:

1. that information concerning the obligor shall be provided to the attorney to the extent allowed by state and federal laws and regulations;

2. that all child support payments collected on behalf of the client shall be sent directly to SES and not to the attorney; and

3. that information furnished to the attorney must be safeguarded and used exclusively for IV-D child support purposes.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2456 (December 1999).

### §2545. Administrative Suspension of Licenses Issued by the State of Louisiana

A. SES may administratively suspend licenses of child support obligors who are not in compliance with an order for support. License suspension will be considered if income assignment is not effective, or if the obligor is not making payments or is making only sporadic payments. An obligor shall meet one of the following criteria to be considered for license suspension:

1. delinquent at least 90 days in the payment of support; or

2. has failed to provide and/or maintain health insurance ordered by a court.

B. SES will send a notice of the intent to suspend licenses to the obligor by certified mail with return receipt requested. If anyone in the obligor's household accepts the notice, it shall be considered as successfully served on the obligor. The notice will provide information concerning the following:

1. the municipal address and telephone number of the office that issued the notice;

2. the docket number and court which issued the order of support;

3. the amount of past-due support;

4. what the obligor must do to comply;

5. a summary of the obligor's right to file a written objection to the suspension of licenses and a description of the administrative hearing process; and

6. the right of an unobligated spouse to provide SES with a notarized affidavit in order to retain use of a shared vehicle.

C. Within 20 days of receipt of the notice, the obligor may act in the following manner to forestall license suspension. SES shall certify the obligor's non-compliance to the appropriate licensing authorities if the obligor fails to act as detailed in this matter.

1. The obligor may enter into a written agreement to pay current and past-due support. If an obligor fails to comply with the terms of a written agreement, SES may proceed with license suspension without further notice.

2. The obligor may file a written objection requesting an administrative hearing to determine whether the obligor is in compliance with an order of support. If the hearing authority rules that the obligor is in arrears with the support order and all legal delays have elapsed, SES shall proceed with license suspension without further notice.

3. The obligor may provide acceptable evidence of the inability to pay.

D. Upon timely receipt of written objection, the administrative hearing authority will schedule and notify obligor of the time and place of the hearing. Such hearing may be conducted by telephone or other electronic media. A decision shall be rendered within 90 days of receipt of the written objection.

E. For a driver's or vehicular license, SES shall be sensitive to the obligor's needs to retain the license for work purposes or to provide medical transportation to a dependent person. In some situations, SES may suspend driving privileges for specific times of the day or for specific days of the week.

F. SES shall issue a release certificate if an obligor becomes compliant with a support order and is eligible to have a license reissued. Such certificate will be sent to the agency or authority that suspended the obligor's license.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 9:315.40 et seq.; 42 U.S.C. 666.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, Support Enforcement Services, LR 27:2264 (December 2001).

## Subchapter M. Cooperation with Other State Agencies

### §2575. Department of Revenue and Taxation

A. Support Enforcement Services may refer support cases to the Department of Revenue and Taxation which can use any means available under law to collect delinquent court-ordered child support payments. SES will provide to the obligor a 30-day advance notice prior to referral.

B. Criteria for referral include cases in which the obligor is not making regular child support payments at least equal to the monthly obligation; income assignment cannot be used; the obligor is delinquent $1,000 or more; and there is an indication that the obligor may have assets which could be seized to pay the delinquency.

C. The Department of Revenue will refer information to SES when an obligor indicates that collection would result in undue hardship to the health and welfare of his family. SES will review the case and render a decision on continuance within 45 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:236.9, P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:748 (June 1997).

### §2576. Department of Motor Vehicles and Law Enforcement Agencies

A. SES may obtain information relating to motor vehicle and law enforcement files for purposes of locating a noncustodial parent and for purposes of enforcing orders.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:748 (June 1997).

## Subchapter N. Publication of Names of Delinquent Payors

### §2579. Publication of Names

A. SES will periodically provide a listing of noncustodial parents who are delinquent in child support payments for publication by the media. Publication may be at the expense of DSS or on a public service basis. The information will also be included on the DSS Homepage on the Internet. The entire list, or segments thereof, may be provided to the media or placed on the DSS Homepage.

B. Information to be released includes the name, date of birth, last known address, and the total amount of past-due support owed by the noncustodial parent. Persons to be listed are those who have made no payments within the last six months, excluding payments received through IRS, state tax, or lottery intercepts. Noncustodial parents who are incarcerated or who cannot pay because of a proven disability will not be listed. If a noncustodial parent is listed on the DSS Homepage the name will be removed only upon written request of the noncustodial parent and proof that the arrears have been reduced to less than six months support.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 46:236.6(F).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2457 (December 1999), amended LR 26:2830 (December 2000).

### §2580. Publication of the "Most Wanted" Poster

A. SES will periodically publish a "Most Wanted" poster featuring ten or more noncustodial parents each of whom meets the following criteria:

1. owes a total of $5,000 or more in past due support;

2. has not been making regular payments; and

3. his/her whereabouts are unknown or unverified.

B. Each Regional Office and Orleans and Jefferson District Attorney Offices will submit a list of possible noncustodial parents to be listed on the Most Wanted poster. SES State Office will review the submittals and will select those cases which are determined to be most appropriate for the Most Wanted poster. The selection process will consider the total amount of support owed, the payment history of each person, and the person's history of evading location and service of process.

C. Information to be provided in the "Most Wanted" poster will include the following:

1. the name, age, date of birth, occupation, and last known address(es) of the noncustodial parent;

2. a photograph of the noncustodial parent;

3. the total amount of support owed as calculated by Support Enforcement; and

4. the number of children to whom support is owed.

AUTHORITY NOTE: Promulgated in accordance with LA R.S. 46:236.6(F).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2457 (December 1999).

# Chapter 27. Support Enforcement

## Subchapter A. Establishment of Paternity

### §2701. Blood Tests

A. Effective August 1992, if paternity is established and paternity blood tests were performed, the Department of Social Services, Office of Family Support, Support Enforcement Services, must attempt to obtain a judgment of the costs of the blood tests from the party who denied paternity, as long as the amount requested does not exceed the actual costs of the blood tests.

AUTHORITY NOTE: Promulgated in accordance with F.R. 56:22335, 45 CFR 303.5.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 18:870 (August 1992).

### §2703. Hospital-based Paternity Acknowledgment Program

A. The agency will provide all birthing hospitals in the state written materials concerning paternity establishment, written descriptions of the rights and responsibilities of acknowledging paternity, and the forms necessary to voluntarily acknowledge such, as well as training necessary to operate the program. The agency will receive acknowledgments generated by the program and maintain a statewide database. Information from the database will be used in child support matters subject to the jurisdiction of SES.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.4(f), 303.5(g) and (h), R.S. 40:46.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:117 (February 1996).

### §2705. Administrative Process for Establishing Paternity

A. Upon receipt of a Paternity Declaration Form, Support Enforcement Services will notify the alleged father by certified mail that he has been named as father of the child and that he has 90 days to contest the allegation. If the alleged father fails to contest the allegation in writing within this time frame, he shall be presumed to be the father of the child for support purposes only. The agency or the custodial parent may then proceed with establishing a support order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:34 (E).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22: 118 (February 1996).

## Subchapter B. Reserved

## Subchapter C. Establishment and Modification of Support Orders

### §2754. Obtaining Consumer Reports for Purposes Related to Child Support

A. SES will obtain credit reports on noncustodial parents from consumer reporting agencies to be used in determining ability to pay child support and the appropriate level of such payments. Such information will be obtained only after the parent has been given 10-day notice, or the parent waives the 10-day notice.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:748 (June 1997).

### §2755. Cooperative Agreements with Financial Institutions

A. SES will enter into cooperative agreements with financial institutions to match data in an effort to locate assets of noncustodial parents who are delinquent in payment of support, and to place liens or to encumber such assets.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:749 (June 1997).

## Subchapter D. State Case Registry

### §2756. Safeguarding Information

A. Support Enforcement Services shall maintain a State Case Registry which contains case names, Social Security numbers, dates of birth, address, and employer information on all cases receiving services and all child support orders issued or modified in the state. This information shall be transmitted to the Federal Case Registry which may be accessed by authorized agencies in other states. If a determination is made that SES has reasonable evidence of family violence, either domestic violence or child abuse, the State Case Registry shall include an indicator of family violence for the individual. The family violence indicator will prohibit release of information to any authorized person or agency, unless the authorized person or agency secures a court order to release the information. The court will make the ultimate decision regarding disclosure of that information to the requester.

B. Reasonable evidence of *family violence* is defined by any one of the following:

1. a protective order has been entered with respect to either party or the child;

2. DSS or medical records indicate violence or abuse;

3. corroborative evidence from at least two witnesses;

4. residence in a shelter for battered women;

5. good cause determination has been made by FITAP, Medicaid, or Foster Care.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, 45 CFR 303.15, 303.21 and 307.11, and LA R.S. 46:236.10.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:879 (May 1999).

# Chapter 28. Non-IV-D Program

## Subchapter A. Non-IV-D Case Administration

### §2801. General Provisions

A. In all new child support orders not being enforced by the Department of Social Services, payments for immediate income assignment orders shall be made payable through the Department of Social Services, Office of Family Support, Support Enforcement Services. Services provided are limited to accepting payments through immediate income assignment, distributing those payments, maintaining payment history records, and retaining records in the same manner as IV-D cases. Enforcement services are not provided. Case records are determined confidential as per R.S. 46:56.

B. Payments shall be made payable to Department of Social Services. When a payment is received from the noncustodial parent or that parent's employer, a new check for the same amount will be issued to the custodial parent. Payments will be distributed in accordance with the agency's non-FITAP distribution schedule. The clerks of court will provide information to identify a case if requested by the Department of Social Services.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.100, P.L. 100-485 and R.S. 9:303.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19:1527 (December 1993), amended LR 20:449 (April 1994), LR 26:2830 (December 2000).

### §2802. Agency Guidelines

A. Information required to be provided in order for the department to properly identify and distribute payments are the names, mailing addresses, Social Security numbers, and dates of birth of both the custodial and absent parent, obligation amount, effective date of obligation, frequency of payment, docket number, child(ren)'s name(s), child(ren)'s Social Security numbers, and child(ren)'s dates of birth. Custodial parents must report changes of address to the Department of Social Services. If there is insufficient identifying information to process a payment, the department will hold payments in a suspense file until necessary information is received.

B. Whenever a posting and/or distribution error is discovered resulting in an overpayment, action will be taken to resolve the problem by asking the custodial parent to return the check to the department. Otherwise, the department will institute recoupment of the overpayment by

withholding up to 10 percent from future payment(s) in the case.

C. When there are disputes regarding the handling of the immediate income assignment on a non-IV-D case, the parties may ask for an administrative review of the matter through written request to the director, Support Enforcement Services, Box 94065, Baton Rouge, LA 70804-4065.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 303.100, P.L. 100-485 and R.S. 9:303.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 19:1527 (December 1993), amended LR 20:449 (April 1994).

# Title 67
# SOCIAL SERVICES
## Part III. Family Support
## Subpart 5. Family Independence Work Program

## Chapter 29. Organization

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

**§2901. General Authority**

A. The Family Independence Work Program (FIND Work) is established in accordance with state and federal laws to assist recipients of Family Independence Temporary Assistance (FITAP) to become self-sufficient by providing needed employment-related activities and support services.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 19:504 (April 1993), LR 24:1135 (June 1998).

**§2902. State Plan**

A. The Title IV-F and IV-A/F State Plan as it existed on October 1, 1996 is hereby adopted to the extent that its provisions are not in conflict with any Emergency or normal Rules adopted or implemented on or after October 1, 1996.

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

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

**§2905. Program Administration**

A. Responsibilities of Office of Family Support

1. The FIND Work program will be administered by OFS State Office, regional and parish staff.

2. A case management system is maintained by case managers in each OFS parish office to assist participants in their efforts to become economically independent. Case managers shall assess the participant's family circumstances, education and training status, and level of job readiness; negotiate with the participant an individual responsibility plan that is realistic and achievable; provide positive intervention and act as a participant advocate to maximize the effectiveness of the program; select and arrange for appropriate work activity participation; and monitor program activities.

B. Coordination with Other Service Providers. To maximize the potential that the FIND Work program offers to FITAP recipients the Department of Social Services, will coordinate with the Departments of Health and Hospitals, Employment and Training, Education and Economic Development, as well as other providers of program components and services.

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

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.30, 45 CFR 250.33, R.S. 460.3(A)(3), R.S. 46:453(B), 45 CFR 251.4 and 45 CFR 251.5., P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 17:646 (July 1991), LR 17:973 (October 1991), LR 19:504 (April 1993), LR 23:450 (April 1997).

### Subchapter B. Participation Requirements

**§2907. Individual Participation Requirements**

A. All recipients of cash assistance are mandatory participants unless determined exempt.

1. A single parent/caretaker who is personally providing care for a child under age one is exempt. This exemption is limited to a total of twelve months per single parent/caretaker. However, if the single parent/caretaker is under age 18, has a minor child at least 12 weeks of age, and does not have a high school diploma or equivalent, he must participate in secondary/GED activities or a FIND Work approved activity.

2. A parent/caretaker not included in the cash assistance certification, for any reason other than a FIND Work sanction, is exempt.

3. A dependent child under age 16 is exempt.

4. A dependent child age 16 attending elementary, secondary, vocational, or technical school on a full-time basis is exempt.

5. A dependent child age 17 or 18 attending school and working toward a high school diploma, GED or Special Education Certificate is exempt.

B. All nonexempt applicants and recipients are required to participate a minimum average number of hours per week

in an allowable work activity as an eligibility condition for receipt of cash assistance.

1. A single parent/caretaker eligible for cash assistance is required to participate at least 30 hours per week, with not fewer than 20 hours per week attributable to an activity described in §2911.A.1, 2, 3, 4, 5, 9 or 10.

2. In any two-parent family eligible for cash assistance, the parent/caretaker and the other parent/caretaker in the family must participate a combined total of at least 35 hours per week, with not fewer than 30 hours per week attributable to an activity described in '2911.A.1,2,3,4,5,9 or 10. If child care is provided, the parent/caretaker and the other parent/caretaker in the family must participate a combined total of at least 55 hours per week, with not fewer than 50 hours per week attributable to an activity described in '2911.A.1,2,3,4,5,9 or 10.

3. A single parent/caretaker with a child under age 6 is deemed to be meeting participation requirements if that parent/caretaker is engaged in an activity described in §2911.A.1, 2, 3, 4, 5, 9 or 10 for a monthly average of 20 hours per week.

4. A parent/caretaker under age 20 is deemed to be meeting participation requirements if that parent/caretaker:

a. maintains satisfactory attendance in an activity described in §2911.A. 6, or

b. participates in an activity described in §2911.A.7 for a monthly average of 20 hours per week.

5. For a parent/caretaker age 20 or over, participation in an activity described in §2911.A.6, 7 and 8 may be counted if that parent/caretaker meets the requirements described in §2907.B.1 or 2.

6. No more than 30 percent of individuals in all families and in two-parent families, respectively, who meet countable participation requirements in a month, may consist of:

a. individuals who meet countable participation requirements in an activity described in §2911.A.5; or

b. individuals who are deemed to be meeting participation requirements as described in §2907.B.4.

C. A parent or caretaker who has received cash assistance for 24 months (whether or not consecutive) since January 1, 1997 is required to engage in work, unless determined exempt as described in '2907.A. Engaged in work is defined as:

1. satisfactorily participating in a countable FIND Work activity as described in Subchapter C, '2911; or

2. satisfactorily participating in an alternate FIND Work activity approved by the Office of Family Support.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 16:1064 (December 1990), LR 19:504 (April 1993), LR 19:1177 (September 1993), LR 23:450 (April 1997), LR 24:1781 (September 1998), LR 25:2455 (December 1999), LR 26:1344 (June 2000).

**§2909. Failure to Participate**

A. Failure to participate in the FIND Work Program, without good cause, will result in the removal of the parent's needs from FITAP benefits for a period of three months. If the parent complies, attains good cause or becomes exempt during this time, he may be re-added to the certification effective the fourth month. If he fails to comply, attain good cause or become exempt, the FITAP case will be closed effective the fourth month, and will remain closed until he complies, attains good cause or becomes exempt. A second or subsequent failure to comply will result in closure of the FITAP case and the case cannot be recertified until the parent complies, attains good cause or becomes exempt.

B. Failure of a household member, other than a parent, to participate in the FIND Work Program, without good cause, will result in the removal of the member's needs from the FITAP benefits until the member complies, attains good cause or becomes exempt.

C. Good cause reasons for not participating in the FIND Work Program may include but are not limited to the following:

1. personal illness or injury;

2. physical or mental incapacity;

3. age 60 or older;

4. family emergency or crisis situation;

5. domestic violence as described in LAC 67:1213;

6. unavailability of transportation or child care;

7. individual catastrophic conditions;

8. health or safety hazards at the participation site;

9. participation in FITAP drug testing program;

10. inability to speak the English language and work activity would require this skill;

11. discrimination based on race, color, religion, sex, age, national origin, etc.;

12. appointment with health care provider and alternative arrangements cannot be made;

13. child care or day care for an incapacitated individual living in the home cannot be made.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Office of Family Support, LR 18:870 (August 1992), LR 19:504 (April 1993), LR 23:451 (April 1997), LR 24:353 (February 1998), LR 25:2455 (December 1999), LR 26:1344 (June 2000).

## Subchapter C. Activities and Services

### §2911. Work Activities

A. The following are allowable work activities, with certain limitations or restrictions, that may be provided to a participant:

1. any paid employment, unsubsidized or subsidized;

2. unpaid work experience (including Community Work Experience and Independence through Work);

3. on-the-job training;

4. job search/job readiness, limited to six weeks per individual per federal fiscal year, of which no more than four may be consecutive;

5. vocational education, limited to a total of 12 months per individual;

6. secondary school attendance and preparation for a graduate equivalency diploma, in the case of a recipient who has not completed secondary school or received such a certificate;

7. education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;

8. job skills training directly related to employment;

9. community service;

10. provision of child care services to an individual who is participating in community service.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Service, Office of Family Support, LR 17:1227 (December 1991), LR 19:504 (April 1993), LR 20:1130 (October 1994), LR 22:1142 (November 1996), LR 23:451 (April 1997), LR 25:2456 (December 1999).

### §2913. Support Services

A. Support services include child care, transportation and other employment-related expenses designed to eliminate or moderate the most common barriers to employment.

1. Effective October 1, 1997 child care support services and payments are administered through the Child Care Assistance Program, LAC 67 III. Subpart 12.

2. Transportation Payment

a. Payments may not exceed $500 per participant per month.

b. Effective October 1, 2001, participants who are or become ineligible for cash assistance due to earned income shall be eligible for a transportation payment of $120 per month beginning with the first month of FITAP ineligibility and continuing through the twelfth month of ineligibility or through the last month of employment, whichever comes first.

3. Other Supportive Services

a. Payment of union dues not to exceed $100.

b. Payments not to exceed a combined total of $600 per state fiscal year may be made for certain costs deemed necessary such as eyeglasses, hearing aids and other small medical appliances, uniforms/clothing, tools and training materials, medical exams and drug tests required for employment and training that are not provided by Medicaid or any other resource, placement test fees and other course pre-requisite costs, safety equipment and transportation-related expenses.

i. Participants who become ineligible for cash assistance due to earned income are eligible for other supportive service payments not to exceed a combined total of $200 beginning with the first month of FITAP ineligibility and continuing through the twelfth month of ineligibility or through the last month of employment, whichever comes first.

c. The purchase of refreshments at a maximum cost of $1 per day per participant is allowed for in-house activities. Supplies will be purchased in bulk from vendors following state procurement Rules and Regulations, and utilized in accordance with the projected numbers of participants and days of activities the supplies are to cover.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:309 (March 1991), amended LR 17:388 (April 1991), LR 18:244 (March 1992), LR 18:687 (July 1992), LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 19:504 (April 1993), LR 20:793 (July 1994), LR 23:451 (April 1997), LR 24:356 (February 1998), LR 24:1135 (June 1998), LR 25:526 (March 1999), LR 25:2456 (December 1999), LR 26:1344 (June 2000), LR 28:102 (January 2002).

# Title 67
# SOCIAL SERVICES
## Part III. Family Support
## Subpart 6. General Assistance (GA)

## Chapter 33. Application, Eligibility, and Furnishing Assistance

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

### §3301. Phase Out of General Assistance Program

A. The Department of Health and Human Resources, Office of Family Security will discontinue accepting applications for its general assistance program with the benefits currently being paid phased out and will eliminate all expenditures under the program no later than June 30, 1986.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51 and R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 11:753 (August 1, 1985), LR 11:1079 (November 1985).

# Title 67
# SOCIAL SERVICES
## Part III. Family Support
## Subpart 7. Refugee Cash Assistance

## Chapter 35. Administration

**§3501. Authority**

A. The Refugee Cash Assistance Program is established in accordance with applicable sections of 45 CFR.

AUTHORITY NOTE: Promulgated in accordance with applicable sections of 45 CFR.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:1226 (December 1991).

## Chapter 37. Application, Eligibility and Furnishing Assistance

## Subchapter A. Coverage and Conditions of Eligibility

**§3701. Eligibility Determination**

A. Eligibility for Refugee Cash Assistance is generally the same as for the Family Independence Temporary Assistance Program unless otherwise noted. Significant exceptions include the requirements for school attendance, immunizations, and parenting skills, relationship, cooperation with Support Enforcement Services, participation in FIND Work, and the Earned Income Deduction.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400(E), 36:474.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998).

**§3703. Eligibility Periods**

A. Periods of eligibility for Refugee Cash Assistance will be determined by, and are subject to change according to, the extent of federal funding available. As such eligibility periods may vary based on federal appropriations, these eligibility periods are determined by the Office of Refugee Resettlement of the U.S. Department of Health and Human Services

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.202.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:953 (October 1991), LR 18:22 (January 1992).

**§3704. Application Time Limit and Initial Payment**

A. The time within which the worker shall dispose of the application is limited to within 30 days from the date on which the signed application is received in the local office. In order to assure payment is mailed by the thirtieth day, the initial payment shall be issued by the local office on all certifications which pend over 28 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:353 (February 1998).

**§3707. Resources**

A. All resources are countable for an RCA household according to LAC 67:III.1115 with the following additional exceptions:

1. $1,000 per assistance unit;

2. equity value up to $1,500 in one power driven land conveyance;

3. an RCA household is not allowed an Individual Development Account.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.61.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:354 (February 1998).

**§3708. Income**

A. Income is counted for an RCA household according to LAC 67:III.1150 except that lump sum payments are countable.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.61.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:354 (February 1998).

**§3709. Ineligibility Based on Lump Sum Income**

A. The period of ineligibility based on lump sum income may be recalculated when one or more of the following applies:

1. as a result of yearly increases in the Need Standard, action to adjust the period of ineligibility as a result of Need Standard increases is required only if the former recipient reapplies for assistance during the period of ineligibility;

2. life threatening circumstances arise prior to its expiration which require the assistance unit to expend all or part of the lump sum income in meeting the expenses related to such circumstances;

3. the lump sum or a portion of the lump sum becomes unavailable as a result of circumstances beyond the

client's control, such as verified loss or theft, or the person who received the lump sum leaves the home and makes the money unavailable to the remaining assistance unit.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.61.

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

**§3710. Earned Income Deductions**

A. Each individual in the assistance unit who has earned income is entitled to a standard deduction of $90.

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

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

# Title 67
# SOCIAL SERVICES
## Part III. Family Support
## Subpart 8. U.S. Citizens Repatriation Program

## Chapter 39. Organization

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

**§3901. Authority**

A. The U.S. Citizens Repatriation Program is established in accordance with applicable sections of 45 CFR.

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

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

**§3903. State Plan**

A. Effective November 1, 1985, Louisiana will implement the State Plan in order to allow for the activation of the Emergency Repatriation Program in the event that an emergency occurs in a foreign country which would require the immediate evacuation of American citizens and their dependents from overseas areas to the continental United States. A copy of this plan is available for review in each local Office of Family Security.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 212.

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

# Title 67
# SOCIAL SERVICES
## Part III. Family Support
## Subpart 9. Refugee Resettlement Program

## Chapter 41. Administration

### §4101. Authority

A. The Refugee Resettlement Program is established in accordance with applicable sections of 45 CFR.

AUTHORITY NOTE: Promulgated in accordance with applicable sections of 45 CFR.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:1226 (December 1991).

## Chapter 43. Application, Eligibility, and Furnishing Assistance

## Subchapter A. Coverage and Conditions of Eligibility

### §4301. Coverage and Conditions

A. The Department of Health and Human Resources, Office of Family Security, shall revise the Refugee Resettlement Program as follows.

1. A refugee must register for employment services as a condition of receiving cash assistance regardless of his/her date of entry into the United States unless otherwise exempt from such registration.

2. Every employable refugee shall participate in any social service program that the Office of Family Security and/or Office of Human Development determines is available and appropriate.

3. An employable refugee's cash assistance shall be terminated (after opportunity for an administrative hearing) with the month in which the refugee refuses an appropriate offer of employment or refuses to participate in an available and appropriate social service program.

4. Cash assistance shall not be made available to refugees who are full time students in institutions of higher education.

B. The above revisions shall become effective March 1, 1983.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-383 seq. and ORR-AT-82-3.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:63 (February 1983).

## Subchapter B. Need and Amount of Assistance

### §4303. Earned Income Disregard

A. The Department of Health and Human Resources, Office of Family Security shall not allow Refugee Resettlement recipients an earned income disregard of $30 plus one third of the remainder of the earnings when determining the grant amount.

AUTHORITY NOTE: Promulgated in accordance with F.R. 47:10849.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:599 (November 1982).

### §4305. Payment Standard

A. Refugee Cash Assistance payments for an eligible refugee shall be 100 percent of the payment level which would be appropriate for an eligible filing unit of the same size under the FITAP Program.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.62.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:415 (June 1983).

### §4307. Payment Amount

A. Round down to the next lower dollar the budgetary deficit to determine the payment amount for FITAP and Refugee Resettlement recipients. The budgetary deficit is the amount remaining after subtracting applicable income from the total assistance needs (Flat Grant Amount). Prorate the initial assistance payment for FITAP and Refugee Resettlement recipients when the case is certified effective the same month as application. Payment will not be made for any period prior to the date of application.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-248 and F.R. 47:41108 et seq.
HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:648 (December 1982).

# Title 67
# SOCIAL SERVICES
## Part III. Family Support
## Subpart 10. Individual and Family Grant Program

## Chapter 45. Administration

### §4501. Authority

A. The Individual and Family Grant (IFG) Program is established in accordance with applicable sections of 44 CFR.

AUTHORITY NOTE: Promulgated in accordance with applicable sections of 44 CFR.

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

## Chapter 47. Application, Eligibility, and Furnishing Assistance

## Subchapter A. Need and Amount of Assistance

### §4701. Maximum Grant Amount

A. The maximum grant amount in the IFG Program is adjusted at the beginning of each federal fiscal year to reflect changes in the *Consumer Price Index for All Urban Consumers* as published by the U. S. Department of Labor.

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131, P.L. 93-288 and F.R. 54:58378.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:444 (June 1989), LR 15:744 (September 1989), amended by the Department of Social Services, Office of Family Support, LR 17:474 (May 1991), LR 17:766 (August 1991), LR 17:888 (September 1991), LR 18:939 (September 1992), LR 18:1352 (December 1992), LR 19:167 (February 1993), LR 19:213 (February 1993), LR 19:606 (May 1993), LR 19:784 (June 1993), LR 20:449 (April 1994), LR 21:403 (April 1995).

### §4702. Flood Insurance

A. In order to be eligible for assistance under the IFG Program, an individual or family residing on property located in a flood hazard zone and whose losses are the result of flooding must agree to purchase adequate flood insurance and maintain such insurance for as long as they live in the home. This maintenance provision also applies to individuals who buy, or otherwise have transferred to them, any real estate for which flood insurance maintenance has been required.

B. The dollar value of the required flood insurance policy for housing and personal property grants where the applicant resides in a flood zone is also adjusted at the beginning of each federal fiscal year to reflect changes in the *Consumer Price Index for All Urban Consumers*.

C. A Group Flood Insurance Policy (GFIP), a policy covering all individuals named by a state as recipients of an IFG Program award for flood damage, has been established. The criteria for determining who is required to purchase flood insurance has not changed.

1. The amount of coverage provided by the GFIP will be equivalent to the IFG maximum grant and will cover both homeowners and renters.

2. The amount of coverage is adjusted annually according to the Consumer Price Index.

3. Implementation of the GFIP will be at the time of the disaster declaration and coverage will begin 60 days from the date of the disaster declaration.

4. Term of coverage will be 36 months from the inception date of the GFIP.

5. Coverage for IFG recipients will begin on the thirtieth day after the National Flood Insurance Program (NFIP) receives the premium payment from the state.

6. Premium is set at $200 for each individual or family, but may be adjusted thereafter to reflect NFIP loss experience and any adjustment of benefits under the IFG Program.

7. Premium sent to the NFIP on behalf of the recipient is considered as part of the grant.

8. Homeowners must maintain flood insurance coverage on the residence at the flood-damaged property address for as long as the structure exists, even if ownership of the property changes.

9. Renters must maintain flood insurance coverage on the contents for as long as the renter resides at the flood-damaged property address.

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131 and P.L. 93-288.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:444 (June 1989), LR 15:744 (September 1989), amended by the Department of Social Services, Office of Family Support, LR 17:474 (May 1991), LR 17:766 (August 1991), LR 17:888 (September 1991), LR 18:939 (September 1992), LR 18:1351 (December 1992), LR 19:167 (February 1993), LR 19:213 (February 1993), LR 19:606 (May 1993), LR 19:784 (June 1993), LR 20:449 (April 1994), LR 21:402 (April 1995), LR 21:837 (August 1995), LR 22:1232 (December 1996), repromulgated LR 23:591 (May 1997).

### §4703. Minimum Damage Threshold

A. A minimum damage threshold of $201 or more in real or personal property losses, resulting from any type of incident, must be met in order to be eligible for an IFG Program grant.

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 22:1233 (December 1996).

### §4704. Special Condition of Eligibility Effective September 23, 1998

A. Only U.S. citizens, U.S. non-citizen nationals and qualified aliens are eligible for IFG assistance. A qualified alien is defined as:

1. an alien admitted for permanent residence under the Immigration and Nationality Act (INA);

2. an alien granted asylum under '208 of the INA;

3. a refugee admitted to the U.S. under '207 of the INA;

4. an alien paroled into the U.S. under '212(d)(5) of the INA for at least one year;

5. an alien whose deportation is being withheld under '243(h) of the INA as in effect prior to April 1, 1997 or whose removal is being withheld under '241(b)(3) of the INA;

6. an alien granted conditional entry pursuant to '203(a)(7) of the INA as in effect prior to April 1, 1980;

7. an alien who is a Cuban or Haitian entrant, as defined in '501(e) of the Refugee Education Assistance Act of 1980; or

8. an alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the U.S. and otherwise satisfies the requirements of '431(c) of the Act.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 104-208.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1953 (October 1998).

# Title 67
# SOCIAL SERVICES
## Part III. Family Support
## Subpart 11. Disability Determination Services

## Chapter 49. Organization

## Subchapter A. Designation and Authority of State Agency

### §4901. Federal Guidelines

A. The official policy of the Disability Determinations Program shall be the federally produced and distributed Program Operational Manual System. Any changes in policy promulgated in accordance with federal rulemaking procedures shall be the official policy of the Disability Determinations Program.

AUTHORITY NOTE: Promulgated in accordance with Section 221.(a)(2) of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 11:770 (August 1985).

# Title 67
# SOCIAL SERVICES
## Part III. Family Support
## Subpart 12. Child Care Assistance

## Chapter 51. Child Care Assistance Program

### §5101. Authority

A. The Child Care Assistance Program is established effective October 1, 1997 and administered under the authority of state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998).

### §5102. Definitions

*Case Head*—an individual who may apply for child care assistance for a child who customarily resides with him/her for more than half the time, including the child's parent, or an adult household member with primary responsibility for the child's financial support and care if the child's parent is not living in the home or living in the home but is disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, or Veterans Administration Disability for a disability of 70 percent or more and is unable to care for himself/herself and his/her child(ren) as verified by a doctor's statement, or is under age 18 and not emancipated by law.

*Household*—a group of individuals who live together, consisting of the case head, that person's legal spouse or non-legal spouse, (if the parent of a child in the household), the disabled adult parent who is unable to care for himself/herself and his/her child(ren) who are in need of care and all children under the age of 18 who are dependent on the case head and/or spouse, including the minor unmarried parent (MUP) who is not legally emancipated and the minor unmarried parent's children.

*Training or Employment Mandatory Participant (TEMP)*—a household member who is required to be employed or attending a job training or educational program, including the case head, the case head's spouse, and the minor unmarried parent age 16 or older whose children need child care assistance.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000), amended LR 27:1932 (November 2001).

### §5103. Conditions of Eligibility

A. Family Independence Temporary Assistance Program (FITAP) recipients who are satisfactorily participating in the Family Independence Work Program (FIND Work), as determined by the Case Manager, are categorically eligible. The program will pay 100 percent of the FITAP/FIND Work participant's child care costs.

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

1. The household must reside in Louisiana to be eligible for Child Care Assistance.

2. The household must include a child in current need of child care services who is under the age of 13, or age 13 through 17 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or by receipt of Supplemental Security Income (SSI), or who is under court supervision.

3. The child must customarily reside more than half the time with the person who is applying for child care services. A child is considered to be residing with the case head during scheduled absences from the home/day care, lasting up to six weeks, if there are definite plans for the child to return to the home/day care facility.

4. The case head, that person's legal spouse, or non-legal spouse (if the parent of a child in the household), including any minor unmarried parent age 16 or older who is not legally emancipated, and whose children are in need of Child Care Assistance, unless disabled as established by receipt of Social Security Administration Disability benefits, Supplemental Security Income, or Veteran's Administration Disability benefits for a disability of at least 70 percent must be:

a. employed a minimum average of 20 hours per week and all countable work hours must be paid at least at the Federal minimum hourly wage; or

b. attending a job training or educational program that is legally authorized by the state for a minimum average of 20 hours per week (attendance at a job training or educational program must be verified, including the expected date of completion); or

c. engaged in some combination of employment which is paid at least at the Federal minimum hourly wage, or job training, or education as defined in §5103.B.4.b, that averages at least 20 hours per week.

d. Exception: a household in which all of the members described in §5103.B.4 meet the disability criteria is not eligible for child care assistance unless one of those members meets the required minimum average of 20 activity hours per week.

5. Household income does not exceed 60 percent of the state median income for a household of the same size. Income is defined as the gross earnings of the case head, that person's legal spouse, or non-legal spouse (if the parent of a child in the household), and any minor unmarried parent who is not legally emancipated and whose children are in need of child care assistance, from all sources of employment and from the following types of unearned income of all household members: Social Security Administration benefits, Supplemental Security Income, Veteran's Administration benefits, retirement benefits, disability benefits, child support/alimony, unemp loyment compensation benefits, adoption subsidy payments, and worker's compensation benefits.

6. The child in need of care must be either a citizen or a qualified alien. CCAP policy on qualified aliens is the same as policy defined by the Family Independence Temporary Assistance Program (FITAP).

7. The family requests child care services, provides the information and verification necessary for determining eligibility and benefit amount, and meets appropriate application requirements established by the State. Required verification includes proof of social security numbers for all household members, birth verification for all children in need of care, proof of all countable household income, and proof of the hours of all employment/education/training.

C. Cases eligible for payment shall be assigned a certification period of up to six months. The household is required to report any changes that could affect eligibility or benefit amount within ten days of knowledge of the change.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001).

**§5105. Funding Availability**

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

1. A certain number of slots will be set aside for the children of FIND Work participants and for the children of those participants whose FIND Work eligibility has been terminated due to earned income. When the remaining slots are filled, all funds for the current year shall be considered as obligated, and no payments may be made for any additional children determined to be eligible.

2. After all available slots are filled, a waiting list of cases/eligible children will be establis hed and maintained for each parish in chronological order by date of application. As slots become available, cases will be removed from the waiting list and considered for current eligibility.

a. To facilitate maintaining an active waiting list in each parish, open enrollment will be scheduled for a limited time in the months of October, January, April, and July. During open enrollment periods, children determined eligible will be added to the waiting list. At the agency=s discretion additional enrollment periods may be designated.

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

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

**§5107. Child Care Providers**

A. The case head, or parent/caretaker relative in the case of a FIND Work participant, shall be free to select a child care provider of his/her choice including center-based child care (licensed Class A day care centers and licensed Class A head start centers which provide before-and-after school care and/or summer programs), registered family child day care homes, in-home child care, and public and non-public BESE-regulated schools which operate kindergarten, pre-kindergarten, and/or before-and-after school care programs.

B. A family child day care home shall be registered and entered into the provider directory by the Child Care Assistance Program before payments can be made to that provider.

1. To be eligible for participation, a family child day care home provider must sign a provider agreement, complete a request for registration and Form W-9, pay appropriate fees, furnish verification of Social Security number and residential address, provide proof that he/she is at least 18 years of age, and meet all registration requirements including:

a. current certification in infant/child or infant/child/adult cardiopulmonary resuscitation (CPR);

b. criminal background check on all adults living at the provider's residence or employed by the provider and working in the provider's home or on the provider=s home property, including the provider;

c. furnish verification of 12 clock hours of training in pediatric first aid and other job-related subject areas approved by the Department of Social Services by the provider's renewal date beginning January 1, 2002, and every year thereafter;

d. retain a statement of good health signed by a physician or his designee and proof of a clear tuberculin test, both of which must have been obtained/performed within the past three years and must be repeated every three years thereafter;

e. pass an inspection by the Office of State Fire Marshal; and

f. use only safe children's products and remove from the premises any products which are declared unsafe and recalled as required by R.S.46:2701-2711. (CCAP Family Child Day Care Home providers will receive periodic listings of unsafe and recalled children's products

from the Consumer Protection section of the Attorney General, Public Protection Division).

2. All registration functions for family child day care homes, as provided in R.S. 46:1441 et seq. and as promulgated in the *Louisiana Register*, September 20, 1991, previously exercised by the bureau of licensing, shall be carried out by the Office of Family Support, Child Care Assistance Program.

C. An in-home child care provider must show proof that he/she is at least 18 years of age, verify Social Security number and residence, and complete the Health and Safety Standards Form, the Provider Agreement, and form W-9. An in-home provider may not live at the same residence as the child who is being cared for and may not use the participant's residence address or post office box as his/her mailing address.

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

1. a person living at the same residence as the child;

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

3. Class B child care centers;

4. persons who have been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1(C) or who reside with or employ a person who has been convicted of such an offense;

5. persons/centers providing care outside of the State of Louisiana.

E. Providers must certify that neither they, nor any person employed by or residing with them, have been the subject of a validated complaint of child abuse or neglect, nor have they, or any person employed by or residing with them, been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.(C). Providers, other than an in-home child care provider, unless the agency is aware of a possible criminal offense, must certify that a criminal background check has been requested from the Louisiana State Police to verify this information with respect to above providers and employees of Class A centers. Results of the criminal background check must be received annotating "no hits" prior to being licensed/registered as an eligible provider or certified as an in-home provider if the agency is aware of a possible criminal offense.

1. A Family Child Day Care Home or an In-Home provider may be immediately and permanently terminated as a CCAP eligible provider if:

a. the agency determines that a condition exists which threatens the physical or emotional health or safety of any child in care;

b. the provider violates the terms of the provider agreement; or

c. the criminal background check shows that the provider has been convicted of, or pled no contest to, a crime listed in R.S. 15:587.1.C.

2. A Family Child Day Care Home provider may be permanently terminated as a CCAP eligible provider if the provider is verified to have more than six children in his/her care.

3. Other situations listed in policy or on the provider agreement may lead to the provider's termination as a CCAP eligible provider. These situations include but are not limited to:

a. a Family Child Day Care Home provider's failure to pass the second inspection by the Fire Marshal;

b. a criminal background check response showing that an adult living at a Family Child Day Care Home provider's residence, or working in the provider's home or on his home property, has been convicted of, or pled no contest to, a crime listed in R.S.15:587.1.C;

c. a provider's failure to timely return all requested forms, fees, etc. at renewal;

d. a Class A Center whose license is not renewed;

e. a school child care provider if the school no longer meets the BESE regulations.

F. A quality incentive will be paid to each child care provider who achieves and maintains National Association for the Education of Young Children (NAEYC) accreditation. The incentive will be paid once each calendar quarter, and will be equal to 10 percent of all payments received by that provider from the certificate portion of the Child Care and Development Fund for services provided during the prior calendar quarter.

G. Funds in the form of scholarships may be granted to those child care providers who demonstrate an intention to attain appropriate training in Early Childhood Development.

H. The Child Care Assistance Program offers Repair and Improvement Grants to either licensed or registered providers, or to those who have applied to become licensed or registered, to assist with the cost of repairs and improvements necessary to comply with DSS licensing or registration requirements.

1. The program will pay for one-half of the cost of such a repair or improvement, up to the following maximums, which are based on the capacity of the child care provider.

| Number of Children | Maximum Grant |
|---|---|
| 1 to 6 (FCDCH) | $100 |
| 7 to 20 | $500 |
| 21-40 | $1000 |
| 41-60 | $1500 |
| 61-80 | $2000 |
| 81-100 | $2500 |
| 101-120 | $3000 |
| Over 120 | $3500 |

2. A provider can receive no more than one such grant in any state fiscal year. To apply, the provider must submit an application form with verification, when required, that the repair or improvement is needed to meet DSS licensing or registration requirements and two written estimates of the cost of the repair or improvement, and must certify that the funds will be used for the requested purpose. If the provider has already paid for the repair or improvement, verification of the cost in the form of an invoice or cash register receipt must be submitted. Reimbursement can be made only for eligible expenses incurred no earlier than six months prior to the application.

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

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

### §5109. Payment

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

**Sliding Fee Scale for Child Care Assistance Recipients C 60 Percent of Projected Median Income**

| Number in Household | 2 | 3 | 4 | 5 | 6 | DSS % |
|---|---|---|---|---|---|---|
| Monthly Household Income | 0 - 968 | 0 - 1219 | 0 - 1471 | 0 - 1723 | 0 - 1974 | 85% |
| | 969 - 1147 | 1220 - 1434 | 1472 -1722 | 1724 - 2010 | 1975 2297 | 70% |
| | 1148 - 1325 | 1435 - 1648 | 1723 - 1972 | 2011 - 2296 | 2298 - 2619 | 55% |
| | 1326 - 1503 | 1649 - 1863 | 1973 - 2222 | 2297 - 2582 | 2620 - 2941 | 40% |
| | 1504 - 1681 | 1864 - 2077 | 2223 - 2472 | 2583 - 2868 | 2942 - 3263 | 25% |
| | Above 1681 | Above 2077 | Above 2472 | Above 2868 | Above 3263 | 0% |

| Number in Household | 7 | 8 | 9 | 10 | 11 | DSS % |
|---|---|---|---|---|---|---|
| Monthly Household Income | 0 - 2226 | 0 - 2478 | 0 - 2729 | 0 - 2981 | 0 - 3233 | 85% |
| | 2227 - 2504 | 2479 - 2712 | 2730 - 2919 | 2982 - 3126 | 3234 - 3334 | 70% |
| | 2505 - 2782 | 2713 - 2945 | 2920 - 3108 | 3127 - 3271 | 3335 - 3434 | 55% |
| | 2783 - 3060 | 2946 - 3179 | 3109 -3297 | 3272 - 3416 | 3435 - 3534 | 40% |
| | 3061 - 3338 | 3180 - 3412 | 3298 - 3486 | 3417 - 3560 | 3535 - 3634 | 25% |
| | Above 3338 | Above 3412 | Above 3486 | Above 3560 | Above 3634 | 0% |

| Number in Household | 12 | 13 | 14 | 15 | 16 | DSS % |
|---|---|---|---|---|---|---|
| Monthly Household Income | 0 - 3484 | 0 - 3736 | 0 - 3988 | 0 - 4239 | 0 - 4491 | 85% |
| | 3485 - 3540 | 3737 - 3748 | | | | 70% |
| | 3541 - 3596 | 3749 - 3760 | | | | 55% |
| | 3597 - 3652 | 3761 - 3772 | | | | 40% |
| | 3653 - 3708 | 3773 - 3783 | | | | 25% |
| | ABOVE 3708 | ABOVE 3783 | | | | 0% |

B. Determination of Payments

1. Payments to providers on behalf of non-FITAP recipients will be a percentage of the lesser of:

a. the provider's actual charge multiplied by authorized service days or authorized service hours, or

b. the State Maximum Rate for authorized services as indicated below:

| Class A Centers | | |
|---|---|---|
| | Regular Care | Special Needs Care |
| **Daily** | $15.00 | $18.75 |
| **Hourly** | $ 1.87 | $ 2.34 |

| All Other Provider Types | | |
|---|---|---|
| | Regular Care | Special Needs Care |
| **Daily** | $12.00 | $15.00 |
| **Hourly** | $ 1.50 | $ 1.87 |

c. The number of hours authorized for payment is based on the lesser of the following:

i. the number of hours the child is actually in care each week; or

ii. the number of hours the case head, the case head's spouse, or the minor unmarried parent is working and/or attending a job training or educational program each

week, plus one hour per day for travel to and from such activity. For households with more than one TEMP, the hours of the TEMP with with the smallest number of activity hours are used.

2. Payments to providers on behalf of FITAP recipients will be the lesser of:

a. the provider's actual charge multiplied by authorized service days or authorized service hours, or

b. the State Maximum Rate for authorized services as indicated below:

| Class A Centers | | |
|---|---|---|
| | **Regular Care** | **Special Needs Care** |
| **Daily** | $15.00 | $18.75 |
| **Hourly** | $ 1.87 | $ 2.34 |

| All Other Provider Types | | |
|---|---|---|
| | **Regular Care** | **Special Needs Care** |
| **Daily** | $12.00 | $15.00 |
| **Hourly** | $ 1.50 | $ 1.87 |

c. The number of hours authorized for payment is based on the lesser of the following:

i. the number of hours the child is actually in care each week; or

ii. the number of hours the head of household, head of household's spouse, or the minor unmarried parent is working and/or attending a job training or educational program each week, plus one hour per day for travel to and from such activity. For households with more than one TEMP, the hours of the TEMP with the smallest number of activity hours are used.

C. Payment is made to the eligible child care provider on a monthly basis following the month in which services are provided.

D. Payment may be made to more than one provider for the same child if providers are not paid for the same day, and the combined payment does not exceed the maximum allowable per child.

E. A payment will not be made for a child who is absent from day care more than five days in a calendar month or for an extended closure by a provider of more than five consecutive days in any calendar month. A day of closure by the provider is counted as an absent day for the child.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99 and P.L. 104-193.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR27:1933 (November 2001), LR 26:2829 (December 2000).

### §5111. Ineligible Payments

A. All ineligible benefits are subject to action to recover such benefits.

B. When a participant is suspected of Intentional Program Violation (IPV), appropriate referral and forms shall be submitted to the Fraud and Recovery Section. The Fraud and Recovery Section may then:

1. refer the case for prosecution; or

2. refer the case to the Appeals Bureau for a Disqualification Hearing if the participant does not sign the Waiver of Right to an Administrative Hearing and the facts of the case do not warrant civil or criminal prosecution through the appropriate court systems; or the case was previously referred for prosecution and was declined by the appropriate legal authority; or the case was previously referred for prosecution and no action was taken within a reasonable period of time and the referral was formally withdrawn by Fraud and Recovery.

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

1. six months for the first violation,

2. 12 months for the second violation

3. 24 months for the third violation and for any additional violations.

Exception: The disqualification process will be waived for FIND Work participants and for participants in federally - or state-funded work or training programs.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2830 (December 2000).

## Chapter 52. Wrap-Around Child Care Program

### §5201. Authority

A. The Wrap-Around Child Care Program is established effective June 1, 2000 and is administered under the authority of state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001).

### §5202. Definitions

*Household*—a group of individuals who live together consisting of the head of the household, the legal spouse of the head of the household or non-legal spouse if the parent of a child in the household, and all children under age 18, including the minor unmarried parent of dependent children who need child care services, unless the minor unmarried parent has been emancipated by law.

*Training and Employment Mandatory Participant*—each household member who is required to be employed or engaged in a combination of employment and job training or educational program. These members may include the head of household, the legal spouse of the head of household, the non-legal spouse of the head of household if the parent of a child in the home, and the minor unmarried parent of a child in need of Wrap-Around Child Care services.

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

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

**§5203. Conditions of Eligibility**

A. A household must meet all of the following eligibility criteria:

1. all children receiving services must reside with a parent or adult head of household;

2. effective May 1, 2001, a child may not receive child care services simultaneously from the Wrap-Around Child Care Program, the Family Independence Work Program (FW), or the Child Care Assistance Program (CCAP);

3. effective May 1, 2001, a household in which any member receives Food Stamps, Medicaid, LaCHIP, SSI, Free or Reduced School Lunch, or Kinship Care Subsidy will be categorically income-eligible and may receive Wrap-Around Child Care if otherwise eligible;

4. effective May 1, 2001, FITAP children who live with a qualified relative who is not a required member of the FITAP assistance unit may receive Wrap-Around Child Care if otherwise eligible;

5. the head of household, that person's spouse, or non-legal spouse if the parent of a child in the household, when a child in that household is in need of Wrap-Around Child Care services, must be:

a. effective May 1, 2001, employed a minimum average of 20 hours per week; or

b. effective May 1, 2001, engaged in a combination of employment and job training or an educational program, for a combined average of at least 20 hours per week; or

c. if the household includes a minor unmarried parent who is not legally emancipated and whose child is in need of Wrap-Around Child Care services, the household must contain an adult household member who meets the 20-hour criteria. The minor unmarried parent is required to have some countable activity hours. If the adult household members do not meet the 20-hour criteria, the minor unmarried parent must meet the 20-hour criteria. In this situation the adults are not required to have any countable activity hours, unless they have children in need of care, then they are required to have some countable activity hours.

6. effective May 1, 2001, the number of hours that child care is provided must reasonably correspond to the number of activity hours of the parents and/or adult household members;

7. effective May 1, 2001, at the time of application the household must include at least one child with a need for Wrap-Around Child Care services defined as full-day/full-year child care, that is, full-time (30 or more hours per week) or part-time (less than 30 hours per week), or holiday care that is provided in conjunction with part-time care during the school year, who is:

a. under age 13; or

b. age 13 through age 17, with a physical, mental, or emotional disability rendering him incapable of caring for himself, as verified by receipt of SSI or a signed statement of disability from a physician or licensed psychologist;

8. the child needing care must customarily reside more than half of the time with the head of household who is applying for child care services, ensuring that only one household can receive child care services for that child;

9. the head of household or another adult household member must be responsible for the payment of child care costs for a child who lives in the household. A need for child care services does not exist if child care costs will be paid by a third party who is not a household member. However, this will not apply if a third party, not legally obligated to make child care payments, is temporarily doing so until payments begin.

B. The household must qualify under the income guidelines set forth in §5205, based on the following income sources:

1. gross earnings from all sources of employment and the profit from self-employment; and

2. any unearned income, such as child support, alimony, retirement and disability benefits, Social Security, SSI, unemployment compensation benefits, adoption subsidy, or veteran's benefits, that is received by any household member.

C. A slot must be available with the selected Head Start grantee.

D. The child in need of care must be either a citizen or a qualified alien. Program policy on qualified aliens is the same as policy defined in LAC 67:III.1223.

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

1. proof of social security numbers for all household members;

2. effective May 1, 2001, proof of age;

3. proof of all countable household income;

4. proof of the hours of all employment; and

5. proof of hours at a job training or educational program, as well as anticipated date of program completion.

F. Eligible cases may be assigned a certification period of up to 12 months.

G. The household is required to report any changes that could affect eligibility or payment amount within 10 days of the change. Failure to report a change that affects eligibility or payment amount may result in action to recover any ineligible payment.

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

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

**§5205. Income Limits**

A. Effective May 1, 2001, unless determined categorically income eligible, a household must have total countable income no greater than 130 percent of the Federal poverty level. These amounts are updated annually.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:1560 (September 2001).

**§5207. Rights and Responsibilities**

A. The head of the household applying for, or receiving, Wrap-Around Child Care services shall have certain rights and responsibilities.

1. Information provided by the household will not be released without written consent, except to agencies and officials as allowed by law (LAC 67:III.101-103).

2. The household is entitled to receive timely, written notification of action taken on applications or reported changes in household circumstances.

3. The head of household is responsible for reporting the following within 10 days of the change:

a. termination of employment or attendance at a job training or educational program;

b. reduction to less than an average of 20 hours per week of employment or a combination of employment and job training or educational program;

c. an eligible child moves out of the home;

d. household composition;

e. earned and unearned income; and

f. number of days or hours that a child is in care.

4. Any applicant or recipient who has been denied services under the program may appeal the denial by filing a written request within 10 days of receipt of the written notice of denial. The request must contain a copy of the notice of denial and must state the reason(s) the applicant believes services were wrongfully denied. Notice of denial is deemed received on the seventh calendar day after it is mailed to the applicant or recipient with correct postage paid at the address listed on his most recent application.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001).

**§5209. Head Start Grantees and Other Qualified Providers**

A. Effective May 1, 2001, the agency will provide services to eligible individuals through contracts with some Head Start Program grantees and other qualified providers who meet the standards and requirements set forth in Paragraphs C through E of this Section, for a designated number of slots. Available slots will be filled on a first-come, first-served basis.

B. Effective May 1, 2001, the contracted Head Start grantee or other qualified provider will establish a child care program that consists of full-day/full-year child care, that is, full-time (30 or more hours per week) or part-time (less than 30 hours per week) and holiday care provided in conjunction with part-time care during the school year.

C. The center shall maintain the following child/staff ratios:

1. 4:1 up to age 12 months;

2. 6:1 from age 12 months to age 24 months;

3. 8:1 from age 24 months to age 36 months;

4. 10:1 from age 36 months to age 60 months;

5. 16:1 from age 5 years to age 12 years;

6. children with disabilities will have a child/staff ratio sufficient to provide adequate care but under no circumstances shall the child/staff ratio exceed 16:1.

D. Each group/class shall consist of two staff members for the appropriate number of children. In mixed-age groups, the ratio and group size for the youngest child shall be used.

E. Each group/class shall be supervised by one teacher and one aide, or by two teachers. All teachers at each facility must have at least a CDA (Child Development Associate credential) for the appropriate age of children.

F. Effective May 1, 2001, the Head Start grantee or other qualified provider shall ensure that procedures are in place to prevent, identify, and report suspected abuse or neglect of children as required by Children's Code Articles 601-610 and 45 CFR 1301.31.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:430 (March 2001), amended LR 27:1560 (September 2001).

**§5211. Payment (Effective May 1, 2001)**

A. The Head Start grantee or other qualified provider will be paid a weekly rate of $85 ($17 per day) per child for full-day, full-time child care.

B. The Head Start grantee or other qualified provider will be paid $2.12 per hour per child for part-time care up to a maximum of eight hours per day per child.

C. The Head Start grantee or other qualified provider will be paid $2.12 per hour for up to a maximum of eight hours per day per child ($17 per day) for allowable, holiday care provided in conjunction with part-time care during the school year.

D. Payment will not be made for a child who is absent from day care more than ten days in a calendar month or for an extended closure by a provider of more than five consecutive days in a calendar month.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., 36:474.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:431 (March 2001), amended LR 27:1561 (September 2001).

# Title 67
# SOCIAL SERVICES
## Part III. Family Support
## Subpart 13. Kinship Care Subsidy Program (KCSP)

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

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

**§5301. Application**

A. All individuals applying for Kinship Care Subsidy Program (KCSP) shall be considered applicants for assistance and shall file a written and signed application form under a penalty of perjury. The date the application form is received in the parish office shall be considered the date of application. Applicants for KCSP must apply for benefits through Family Independence Temporary Assistance Program (FITAP).

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000).

**§5303. Application Time Limit**

A. The time limit for disposition of the application is 30 days from the date on which the signed application is received in the local office. The applicant shall have benefits available through Electronic Benefits Transfer (EBT), or be notified that he has been found ineligible for KCSP by the 30th day, unless an unavoidable delay has occurred.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000).

**§5305. Certification Period and Reapplication**

A. Certification periods of a set duration will be assigned. In order to continue to receive benefits, the household must timely reapply and be determined eligible. If the payee fails, without good cause, to keep a scheduled appointment, the case will be closed without further notification. Also, if during the re-application process, a change is reported which results in a determination of ineligibility the case will be closed.

B. The Office of Family Support will require an official reapplication for benefits following a period of ineligibility.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000).

**§5307. Notices of Adverse Actions**

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

1. the agency has factual information confirming the death of the KCSP payee;

2. the client signs a statement requesting closure and waiving the right to advance notice;

3. the client's whereabouts are unknown and agency mail directed to the client has been returned by the Post Office indicating no known forwarding address;

4. a client has been certified in another state and that fact has been established;

5. a child is removed from the home as a result of a judicial determination, or is voluntarily placed in foster care by his legal guardian;

6. the client has been admitted or committed to an institution;

7. the client has been placed in a skilled or intermediate nursing care facility or long-term hospitalization;

8. the agency disqualifies a household member because of an Intentional Program Violation and benefits are terminated because of the disqualification;

9. the worker ends benefits at the end of a normal period of certification when the client timely reapplies;

10. the case is closed due to the amount of child support collected through Support Enforcement Services.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000).

**§5309. Domestic Violence**

A. The secretary shall waive, for as long as necessary, pursuant to a determination of good cause, any public assistance program requirement that will create obstacles for a victim of domestic violence to escape a domestic violence situation, including but not limited to, work, training, or educational requirements; limitations on TANF assistance to noncitizens; child support or paternity establishment cooperation requirements; residency requirements; and any other program requirements which will create obstacles for

such victim to escape violence or penalize that victim for past, present, and potential for abuse.

B. Any information obtained pursuant to this Section regarding a victim of domestic violence shall be used solely for the purposes provided for in this Section or for referral to supportive services and shall not be released to any third party, including a governmental agency, unless such agency is authorized to obtain such information by another provision of law.

C. Individuals who allege domestic violence should submit any available evidence to substantiate their claim. If the individual alleging to be a victim of domestic violence is unable to provide documentation to substantiate the claim, the client's statement may be accepted unless there is a reasonable basis to doubt the statement. The worker must continue to attempt to secure the documentation as it becomes available. The documentation may include, but is not limited to:

1. police, government agency or court records;

2. documentation from a shelter worker, legal professional, member of the clergy, medical professional, or other professional from whom the individual has sought assistance in dealing with domestic violence;

3. other corroborating evidence, such as a statement from any other individual with knowledge of the circumstances which provide the basis for the claim;

4. physical evidence of domestic violence; or

5. other evidence which supports the statement.

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

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

## Subchapter B. Conditions of Eligibility

### §5321. Age Limit

A. A dependent child must be:

1. under 16 years of age; or

2. sixteen to 19 years of age either in school and working toward a high school diploma, GED, or special education certificate or participating in the FIND Work Program.

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

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

### §5323. Citizenship

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

1. an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;

2. an alien who is granted asylum under Section 208 of such Act;

3. a refugee who is admitted to the United States under Section 207 of such Act;

4. an alien who is paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year;

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

6. an alien who is granted conditional entry pursuant to §203(a)(7) of such Act as in effect prior to April 1, 1980;

7. an alien who is a *Cuban* or *Haitian* entrant, as defined in §501(e) of the Refugee Education Assistance Act of 1980;

8. an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien if the spouse or parent consented to, or acquiesced in, such battery or cruelty. The individual who has been battered or subjected to extreme cruelty must no longer reside in the same household with the individual who committed the battery or cruelty. The agency must also determine that a substantial connection exists between such battery or cruelty and the need for the benefits to be provided. The alien must have been approved or have a petition pending which contains evidence sufficient to establish:

a. the status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of §204(a)(1)(A) of the Immigration and Nationality Act (INA); or

b. the classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA; or

c. the suspension of deportation and adjustment of status pursuant to §244(a)(3) of the INA; or

d. the status as a spouse or child of a United States citizen pursuant to clause (i) of §204(a)(1)(A) of the INA, or classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA.

9. an alien child of a battered parent or the alien parent of a battered child as described in 8 above.

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

1. the alien is admitted to the United States as a refugee under Section 207 of the Immigration and Nationality Act;

2. the alien is granted asylum under Section 208 of such Act;

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

4. the alien is a *Cuban* or *Haitian* entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;

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

6. the alien is lawfully residing in the United States and is a *veteran* (as defined in Sections 101, 1101, or 1301, or as described in §107 of Title 38, *United States Code*) who is honorably discharged for reasons other than alienage and who fulfills the minimum active-duty service requirements of §5303A(d) of Title 38, *United States Code*, his spouse or the unremarried surviving spouse if the marriage fulfills the requirements of 1304 of Title 38, *United States Code*, and unmarried dependent children; or

7. the alien is lawfully residing in the United States and is on active duty (other than for training) in the Armed Forces and his spouse or the unremarried surviving spouse if the marriage fulfills the requirements of §1304 of Title 38, *United States Code* and unmarried dependent children.

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

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

### §5325. Enumeration

A. Each applicant for or recipient of KCSP is required to furnish a Social Security number or to apply for a Social Security number if such a number has not been issued or is not known.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000).

### §5327. Living in the Home of a Qualified Caretaker Relative

A. A child must reside in the home of a qualified caretaker relative who is responsible for the day-to-day care of the child and who has legal custody or guardianship of the child. The child's parents may not reside in the home. Legal custody or guardianship must be obtained by the caretaker relative within one year of certification of benefits. Failure to obtain such custody within 12 months of certification will result in cessation of benefits. Benefits will not be denied when the qualified caretaker relative or the child is temporarily out of the home. Good cause must be established for a temporary absence of more than 45 days. The following relatives are qualified caretaker relatives:

1. grandfather or grandmother (extends to great-great-great);

2. step-grandfather or step-grandmother (extends to great-great-great);

3. brother or sister (including half-brother and half-sister);

4. uncle or aunt (extends to great-great);

5. first cousins (including first cousins once removed);

6. nephew or niece (extends to great-great);

7. stepbrother or stepsister.

These may be either biological or adoptive relatives.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), LR 27:2264 (December 2001).

### §5329. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. adoption assistance;

2. earned income of a child who is in school and working toward a high school diploma, GED, or special education certificate;

3. disaster payments;

4. Domestic Volunteer Service Act;

5. Earned Income Credits (EIC);

6. education assistance;

7. energy assistance;

8. foster care payments;

9. monetary gifts up to $30 per calendar quarter;

10. Agent Orange Settlement payments;

11. HUD payments or subsidies other than those paid as wages or stipends under the HUD Family Investment Centers Program;

12. income in-kind;

13. Indian and Native Claims and Lands;

14. irregular and unpredictable sources;

15. lump sum payments;

16. nutrition programs;

17. job training income that is not earned;

18. relocation assistance;

19. a bona fide loan which is considered bona fide if the client is legally obligated or intends to repay the loan;

20. Wartime Relocation of Civilians Payments;

21. Developmental Disability Payments;

22. Delta Service Corps post-service benefits paid to participants upon completion of the term of service if the benefits are used as intended for higher education, repayment of a student loan, or for closing costs or down payment on a home;

23. Americorps VISTA payments to participants (unless the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage);

24. Radiation Exposure Compensation Payments;

25. payment to victims of Nazi persecution;

26. restricted income received for a person not in the income unit. Restricted income is income which is designated specifically for a person's use by federal statute or court order and may include RSDI, VA benefits and court ordered-support payments; or

27. crime victim compensation program payments to an applicant/recipient whose assistance is necessary, in full or in part, because of the commission of a crime against the applicant, and to the extent it is sufficient to fully compensate the applicant for losses suffered as a result of the crime.

B. Pretest

1. In order to meet this requirement, the gross countable income of the caretaker relative's KCSP income unit must be less than 150 percent of the federal poverty threshold for the family size.

2. For purposes of this pretest, the caretaker's KCSP income unit is defined to include:

a. the child; and

b. the caretaker relative; and

c. anyone residing in the home for whom the caretaker relative claims financial responsibility.

3. For purposes of this pretest, income is defined as countable income belonging to any member of the KCSP income unit.

C. Income After Pretest. The child is determined eligible for KCSP if the child’s countable income is less than $222. If the child’s countable income is $222 or more the child is ineligible.

D. Payment Amount. Payment amount is $222 a month for each eligible child.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 26:2832 (December 2000).

**§5331. Immunization**

A. Failure to follow the schedule of immunizations as promulgated by the Louisiana Office of Public Health for any child under 18 years of age, without good cause, shall result in the child's ineligibility for the KCSP subsidy until the child has received the required immunizations, or in the case of an immunization that requires a series of injections, has begun to receive the injections. No person is required to comply with this provision if that person or his/her qualified caretaker relative submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or his/her qualified caretaker relative objects to the procedure on religious grounds.

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

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

**§5333. Residency**

A. KCSP recipients must reside in Louisiana with intent to remain.

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

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

**§5335. School Attendance**

A. At redetermination a school-age child who has missed more than 15 days of school without good cause during the previous six-month period shall be placed in a probationary status. School-age, for purposes of this requirement, is defined as a child who is age 7 through 16. If, however, a child starts school at the kindergarten level before age 7, he is considered to be a school-age child at the point he starts kindergarten. If during the probationary period a child is absent from school for more than 3 days in a given calendar month without good cause, the child will be ineligible for the KCSP subsidy until documentation that the child's attendance meets the requirements is provided.

B. A child age 17 or 18 is eligible to receive assistance if attending school and working toward a high school diploma, GED, or special education certificate, or participating in or exempt from the FIND Work Program.

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

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

**§5337. Assignment of Support Rights and Cooperation with Support Enforcement Services**

A. Assignment of Support Rights

1. Each applicant for, or recipient of, KCSP is required to assign to the Louisiana Department of Social Services, Office of Family Support, any accrued rights to support for any other person that such applicant or recipient may have, including such rights in his own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving.

2. By accepting KCSP for, or on behalf of, a child or children, the applicant or recipient shall be deemed to have made an assignment to the department of any and all right, title, and interest in any support obligation and arrearage owed to, or for, such child or children or caretaker up to the amount of public assistance money paid for, or on, behalf of such child or children or caretaker for such term of time as such public assistance monies are paid; provided, however, that the department may thereafter continue to collect any outstanding debt created by such assignment which has not been paid by the responsible person. The applicant or recipient shall also be deemed, without the necessity of signing any document, to have appointed the Support Enforcement Services Program administrator as his or her true and lawful attorney-in-fact to act in his or her name, place, and stead to perform the specific act of endorsing any and all drafts, checks, money orders or other negotiable instruments representing support payments which are received on behalf of such child or children or caretaker as reimbursement for the public assistance monies paid to such applicant or recipient.

B. Cooperation with Support Enforcement Services

1. Each applicant for, or recipient of, KCSP is required to cooperate in identifying and locating the parent of a child with respect to whom aid is claimed, establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, obtaining support payments for such applicant or recipient and for a child with respect to whom aid is claimed, and obtaining any other payment or property due such applicant or recipient unless good cause is established.

2. Good cause exists when:

a. the client's cooperation with Support Enforcement Services is reasonably anticipated to result in physical or emotional harm to the child or caretaker relative which reduces his capacity to care for the child adequately;

b. the child was conceived as a result of incest or rape;

c. legal proceedings for adoption are pending before a court; or

d. the client is being assisted by a licensed or private social agency to resolve the issue of whether to keep the child or relinquish him for adoption. The issue must not have been under discussion more than three months.

3. Failure to cooperate in establishing paternity or obtaining child support will result in denial or termination of cash assistance benefits.

4. Failure to cooperate includes, but is not limited to, the following instances where good reason for failing to cooperate has not been established by the IV-D office:

a. failure to keep two consecutive appointments;

b. failure or refusal to cooperate at an interview;

c. failure to appear for, or cooperate during a court date or genetic testing.

5. The payee or recipient who has failed to cooperate will be notified in writing of the sanctioning. The payee or recipient's desire or intention to cooperate will not preclude case closure.

C. In any case in which child support payments are collected for a recipient of KCSP with respect to whom an assignment is in effect, such amount collected will be counted as income to determine eligibility.

D. Written notice will be provided to the Child Support Enforcement Agency of all relevant information prescribed by that agency within two days of the furnishing of KCSP.

E. Louisiana must have in effect a plan approved under Part D of Title IV of the Social Security Act and operate a child support program in conformity with such plan.

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

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

### §5339. Parenting Skills Education

A. As a condition of eligibility for KCSP benefits any child under age 19 who is a parent must attend a parenting skills education program provided by the Office of Family Support or provide proof of attendance of this type of training provided by another recognized agency or source. Failure to meet this requirement without good cause shall result in ineligibility for KCSP. Ineligibility will continue until compliance is demonstrated.

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

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

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

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

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

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

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

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

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

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

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

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

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

### §5343. Fleeing Felons and Probation/Parole Violators

A. No cash assistance shall be provided to a person fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the state from which the individual flees. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

B. No cash assistance shall be provided to a person violating a condition of probation or parole imposed under federal or state law. This does not apply with respect to the conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

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

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

### §5345. Individuals Convicted of a Felony Involving a Controlled Substance

A. An individual convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in Section 102(6) of the Controlled Substances Act, 21 U.S.C. 802[6]) shall be disqualified from receiving KCSP for a period of one year commencing on the date of conviction if an individual is not incarcerated, or from the date of release from incarceration if the individual is incarcerated. This shall apply to an offense which occurred after August 22, 1996.

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

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

## Subchapter C. Recovery

### §5383. Recovery of Overpayments

A. All KCSP overpayments shall be subject to collection either by recoupment or recovery with the exception of:

1. inadvertent household error claims of $250 or less; and

2. administrative error claims.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

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

**§5385. IV-D Recovery of Support Payments**

A. When assigned child support payments are received and retained by the KCSP applicant/recipient, responsibility is placed with the IV-D agency (Child Support Enforcement Services) to recover all such payments. The only exception is a direct payment retained by the recipient during the period when the sanction for failure to cooperate is in effect.

B. In providing for this policy the IV-D staff must:

1. document that the recipient has received and retained direct payments, and the amounts;

2. provide a written notice of intent to recover the payments to the recipient including:

a. an explanation of the recipient's responsibility to cooperate by turning over direct payments as a condition of eligibility for KCSP, and a sanction for failure to cooperate as provided at 45 CFR 232.12(d);

b. a detailed list of the direct payments as documented by IV-D, including dates and amounts of payments and description of documentary evidence possessed by IV-D;

c. a proposal for a repayment agreement related to the recipient's income and resources including the KCSP grant and the total amount of retained support;

d. providing the opportunity for the recipient to have an informal meeting to clarify his responsibilities and to resolve any differences regarding repayment.

C. The IV-D Agency (Child Support Enforcement Services) must refer the case to IV-A (KCSP) with evidence of failure to cooperate if the recipient refuses to sign a repayment agreement or signs an agreement but subsequently fails to make a payment. IV-D must also notify IV-A if a recipient later consents to an agreement or if the recipient who defaulted on the agreement begins making regularly scheduled payments.

D. To recover amount due from any period of default, the IV-D Agency (Child Support Enforcement Services) must extend the duration of the agreement.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:356 (February 2000).

# Subchapter D. Special Initiatives

**§5390. Energy Assistance**

A. Based on the availability of funding and a determination of need by OFS, all households receiving a KCSP grant may also be eligible to receive an energy assistance grant effective August 2001 to apply towards the cost of utility service. OFS will establish a specific date of eligibility in order to determine when households will receive a grant, and only those households certified as of that date will be eligible for energy assistance.

B. The payment process will be administered by an outside entity through a contractual agreement. Recipients will be required to provide verification of identity as well as proof of residency at the utility service address. The energy assistance payment will be paid directly to the recipient's utility company or provider.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:103 (January 2002).

# Title 67
# SOCIAL SERVICES
## Part III. Family Support
## Subpart 14. Teen Pregnancy Prevention

## Chapter 54. Teen Pregnancy Prevention Program

### §5401. Authority

A. The Teen Pregnancy Prevention Program shall be administered under the authority of state and federal laws. In Louisiana, the program operates under the name *Keeping It R.E.A.L. (Reality Education About Life)*.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:1018 (July 2001).

### §5403. Strategy

A. As lead agency, the Office of Family Support (OFS) will reduce the number of unwed pregnant and parenting teens through the implementation of comprehensive and effective community, faith-based, and school-based programs, and public awareness efforts. The following strategies will be used to accomplish this mission:

1. selecting programs developed around criteria that reflect success in curbing teen pregnancy as demonstrated in current research;

2. involving and embracing all segments of the community in the development of those programs, including teens, parents, neighborhoods, educators, and businesses; and

3. ensuring that the programs are goal oriented and able to document success through a strong independent research and evaluation component as outlined below.

B. Success measures in curbing the teen birth rate include:

1. delaying sexual experience (debut);

2. reducing the incidents of pregnancy, number of repeat pregnancies, and the number of out-of-wedlock births; and

3. increasing the number of parenting teens who complete high school and the employability of parenting teens and/or at-risk youth.

C. There are three target groups involved in reducing teen pregnancy:

1. 11-19 year old students and non-students;

2. teen parents; and

3. the adult parents/caretakers of the teens.

D. Research shows that a holistic approach, involving all aspects of the community working together, may lead to a reduction in the teen pregnancy rate.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S.36:474.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:1019 (July 2001).

### §5405. Goals and Objectives

A. The program objective is to create community, faith- and school-based programs which will present age-appropriate educational material to a targeted population ranging in age from 11-19 years. This includes middle, high school, and college students and others in this age group who are no longer in school. All services are provided by contracted providers.

B. To reduce the number of births, intermediate goals are established according to age groups.

1. For the adolescents aged 11-13 (middle school grades 6-8), the following intermediate goals have been set:

a. postpone sexual debut;

b. reduce school suspension/expulsion rate;

c. increase school attendance;

d. increase parental involvement; and

e. increase the number of males involved in positive male mentoring/manhood development programs.

2. For teenagers aged 14-16 (early high school), the following intermediate goals have been set:

a. postpone sexual debut;

b. reduce unprotected sex;

c. increase high school/GED graduation rates;

d. reduce STD (sexually-transmitted disease) and HIV rates;

e. reduce school suspension/expulsion rate;

f. increase parental involvement; and

g. increase the number of males involved in positive male mentoring/manhood development programs.

3. For teenagers aged 17-19 (upper high school, college, non-students, current teen parents), the same goals in §5405.B.2 will apply with the addition of the following:

a. increase job training and employment;

b. increase parenting skills training; and

c. increase the number of males involved in positive male mentoring/manhood development programs with an emphasis on responsible fatherhood.

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

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

**§5407. Program Activities**

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

1. Youth Development;
2. Comprehensive Health/Family Life;
3. Parental Involvement;
4. Counseling;
5. Male Involvement;
6. Media;
7. Evaluation.

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

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

# Title 67
# SOCIAL SERVICES
## Part III. Family Support
## Subpart 15. Temporary Assistance to Needy Families (TANF) Initiatives

## Chapter 55. TANF Initiatives

### §5501. Starting Points Early Childhood Development Program

A. The Office of Family Support will enter into a Memorandum of Understanding with the Department of Education, Office of Student and School Performance, to provide quality, early childhood education to certain four-year-old children.

B. These services meet the TANF goal of encouraging the formation and maintenance of two-parent families by providing at-risk families with quality early childhood education to four-year-old children, as well as providing support to the parents in obtaining higher literacy levels, crisis intervention, and positive parenting skills resulting in greater financial and familial stability. Children placed in quality education programs at an early age are more likely to become contributing members of society by developing responsible behaviors and an interest in learning that will eventually lead to graduation. High quality pre-school programs for at-risk children have been shown to result in more positive outcomes relative to academic achievement, resistance to substance abuse and other criminal activities, lower levels of teen pregnancy, and good mental health.

C. Eligibility for services is limited to at-risk families in which the child is one year younger than the eligible age for kindergarten and eligible to receive free or reduced school lunch meals pursuant to the Federal Child Nutrition Program as documented by a completed application for such meals, whether or not such meals are sought.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:2265 (December 2001).

### §5503. Emergency Energy Assistance

A. Effective September 28, 2001, in the event of an agency-declared energy emergency based on the availability of funding and a determination of need by OFS, needy families may receive a grant to apply toward the cost of utility service.

B. Services meet the TANF goal of providing assistance to needy families so that children may be properly cared for in their own homes or in the homes of relatives by providing funds to help pay the costs of cooling and heating the homes.

C. A needy family is defined as a family in which any member receives Food Stamp benefits, Child Care Assistance Program (CCAP) benefits, Medicaid, Louisiana Children's Health Insurance (LaCHIP), Supplemental Security Income (SSI), or Free or Reduced School Lunch. However, any of the preceding eligibles also receiving FITAP or KCSP grants are not eligible.

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

E. The payment process will be administered by an outside entity through a contractual agreement. Recipients will be required to provide verification of identity and eligibility as defined for a @needy family@ as well as proof of residency at the utility service address. The energy assistance payment will be paid directly to the recipient's utility company or provider.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:103 (January 2002).

### §5505. Nonpublic School Early Childhood Development Program

A. OFS shall enter into a Memorandum of Understanding with the Governor's Office, Office of Community Programs, to provide early childhood education to certain four-year-olds in non-public schools.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by placing children in learning environments at the pre-school level to foster an interest in learning, increase literacy levels, and increase the likelihood of developing responsible behavior.

C. Eligibility for services is limited to at-risk families in which the child is one year younger than the eligible age for public school kindergarten and is eligible to receive free or reduced school lunch meals pursuant to the Federal Child Nutrition Program as documented by a completed application for such meals, whether or not such meals are sought.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:350 (February 2002).

**§5509. Domestic Violence Services**

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Office of Women's Services to provide for services pertaining to domestic violence including rural outreach, services to children in shelters, and training of law enforcement and DSS personnel.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is not limited to needy families. Eligibility for services is limited to children and/or their parents or caretaker relatives who are victims of domestic violence.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:351 (February 2002).

**§5513. Project Return**

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to fund transitional services to former offenders.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by reducing the rate of recidivism. This goal will be accomplished by providing nonmedical substance abuse treatment and counseling, GED and academic enhancement, training in conflict resolution and communication skills, job training, and job placement assistance.

C. Eligibility for services is limited to parents or caretaker relatives of minor children.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:351 (February 2002).

**§5515. Job Skills Program**

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to fund services to enhance basic academic skills of state adult inmates through the Job Skills and Education Program, a computer-based instructional system.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by promoting responsible parenthood. This goal will be accomplished by increasing the inmate's wage-earning capacity, improving decision-making skills and ability to cope with change.

C. Eligibility for services is limited to parents of minor children.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:351 (February 2002).

**§5517. Project Metamorphosis**

A. OFS shall enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to provide inmates who are within 12 to 18 months of their release date with basic educational/vocational instruction, life skills instruction, and job placement counseling and preparation.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by increasing post-release employment and wage rates leading to the successful integration of released inmates back into their families and communities.

C. Eligibility for services is limited to parents of minor children.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:351 (February 2002).

**§5519. Concordia Correctional Life Skills Pre-Release Program at the Concordia Parish Detention Facility**

A. OFS shall enter into a Memorandum of Understanding with the Department of Public Safety and Corrections to provide Concordia Parish Correctional Facility inmates who are within 12 to 18 months of their release date with basic educational/vocational instruction, life skills instruction, and job placement counseling and preparation.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by increasing post-release employment and wage rates leading to the successful integration of released inmates back into their families and communities.

C. Eligibility for services is limited to parents of minor children.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:351 (February 2002).

### §5521. Women and Children's Residential Prevention and Treatment Program

A. OFS shall enter into a Memorandum of Understanding with the Office of Addictive Disorders for a substance abuse prevention and nonmedical treatment program for women with children.

B. These services meet the TANF goal to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage by providing needy families with nonmedical drug abuse treatment so they may become self-sufficient.

C. Eligibility for services is limited to needy families, that is, a family in which any member 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. Services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002).

### §5523. Early Childhood Development Program

A. OFS shall enter into a Memorandum of Understanding with the Department of Education to provide early childhood education to four-year-olds.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by giving parents of these children an opportunity earlier in the children's lives to become active partners in their education and increase their own literacy level by participating with their children in school programs and also meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births.

C. Eligibility for services is limited to at-risk families in which the child is one year younger than the eligible age for kindergarten and is eligible to receive free or reduced school lunch meals pursuant to the Federal Child Nutrition Program as documented by a completed application for such meals, whether or not such meals are sought.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002).

### §5525. Pre-GED/Skills Option Program

A. OFS shall enter into a Memorandum of Understanding with the Department of Education for adult education, pre-GED, skills options, and other dropout prevention programs.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by providing intervention and improved life prospects for students.

C. Eligibility for services is not limited to needy families.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002).

### §5527. Program Evaluation, Comprehensive Needs Assessment, and Training

A. OFS shall enter into an Memorandum of Understanding with the Division of Administration to evaluate the TANF initiatives and to conduct a comprehensive needs assessment and training regarding policy and service-delivery deficiencies.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002).

### §5529. Youth in Transition

A. OFS shall enter into a Memorandum of Understanding with the Office of Community Services to provide services to youth who are ageing out of Foster Care.

B. These services meet the TANF goals to encourage the formation and maintenance of two-parent families and to prevent and reduce out-of-wedlock births.

C. Eligibility for services is not limited to needy families.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002).

### §5531. After-School Tutorial

A. OFS shall enter into a Memorandum of Understanding with the Department of Education to provide after-school tutorial services.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by providing intervention and improved life prospects for students.

C. Eligibility for services is not limited to needy families.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002).

**§5533. Transportation Services**

A. The Office of Family Support shall make funding available for transportation of employed participants in TANF initiatives administered through other agencies as well as short-term transportation services for some unemployed participants.

B. These services meet the TANF goal to end the dependence on government benefits by promoting job preparation, work, and marriage.

C. Services may or may not be limited to needy families depending on which program the participant is involved in.

D. Services are considered non-assistance.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; and Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:352 (February 2002).

**§5535. Fatherhood**

A. Act 639 of the 2001 Regular Session of the Louisiana Legislature created the Fatherhood Council to develop a plan to promote and monitor fatherhood initiatives. Funding and services may be provided in accordance with the plan developed by the Fatherhood Council.

B. These services meet the TANF goal to encourage the formation and maintenance of two-parent families by providing programs that promote responsible parenting and increase the capacity of fathers to provide emotional and financial support for their children.

C. Eligibility for services is limited to fathers of minor children.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 36:474 and 46:231; Acts 12 and 639, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002).

**§5537. Education and Training**

A. The Office of Family Support shall enter into a Memorandum of Understanding with the Department of Education to provide structured after-school programs to help children improve academic performance and to provide literacy and basic education services to adults in need of these services. The Department of Education will implement this program through cooperative endeavor agreements with entities in local communities.

B. These services meet the TANF goals to prevent and reduce the incidence of out-of-wedlock births by providing supervised, safe environments for children thus limiting the opportunities for engaging in risky behaviors, and to encourage the formation and maintenance of two-parent families by providing educational services that enhance a parent's ability to financially and emotionally provide for their children.

C. Eligibility for after-school programs is not limited to needy families. Eligibility for adult education services is limited to parents, legal guardians, and caretaker relatives of minor children.

D. The services are considered non-assistance by the agency.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002).

**§5539. Truancy Assessment and Service Centers**

A. OFS shall enter into a Memorandum of Understanding with the Supreme Court Of Louisiana for Truancy Assessment and Service Centers designed to identify, assess, and intervene to ensure that children in kindergarten through sixth grade attend school regularly.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by providing counseling to children and family members designed to assure regular school attendance and improved academic and behavioral outcomes.

C. Eligibility for services is not limited to needy families.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002).

**§5543. Drug Courts Program**

A. OFS shall enter into a Memorandum of Understanding with the Supreme Court Of Louisiana to provide services to drug court clients that may include nonmedical treatment, assessment, counseling, education, and training. Eligible services shall not include drug court administrative costs.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births and to encourage the formation and maintenance of two-parent families.

C. Eligibility for services is limited to children and to the parents or caretaker relatives of minor children.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002).

**§5545. Remediation and Tutoring Programs**

A. OFS shall enter into a Memorandum of Understanding with the Department of Education, Office of Student and School Performance, to establish programs designed to increase the likelihood of a student scoring above the "unsatisfactory" achievement level on the Graduate Exit Exam and the LEAP 21 exam and include:

1. Graduate Exit Exam Summer Remediation**C**designed to provide additional remedial instruction to targeted students, that is, students who scored "unsatisfactory" on the English language arts and/or mathematics components of the Graduate Exit Exam;

2. Louisiana Education Assessment Program (LEAP) 21 Summer Remediation**C**designed to provide additional remedial instruction to targeted students, that is, fourth and eighth grade students who did not take the spring LEAP 21 test and fourth and eighth grade students who scored "unsatisfactory" on the English language arts and/or mathematics components of the LEAP 21; and

3. Louisiana Education Assessment Program (LEAP) 21 Tutoring**C**designed to provide intense early intervention and remedial instruction to targeted students in an effort to increase the likelihood of them scoring above the "unsatisfactory" level on the LEAP 21. The targeted group includes fourth and eighth grade students who have been retained because of their having scored at the "unsatisfactory" level on the English language arts and/or mathematics components of the LEAP 21 tests, and fourth and eighth grade students whose third and seventh grade IOWA test scores were below the thirtieth percentile and are considered to be at risk of scoring at the "unsatisfactory" level on the English language arts and/or mathematics components of the LEAP 21 tests.

B. These services meet the TANF goal to prevent and reduce the incidence of out-of-wedlock births by encouraging youths to remain in school, reducing their risk of engaging in negative behavior and increasing opportunities for families to become self-sufficient through education and training.

C. Eligibility for services is limited to families which include a minor child living with a custodial parent, an adult caretaker relative or a legal guardian. A family in which any member 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 is eligible.

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

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; Act 12, 2001 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:353 (February 2002).

# Title 67
# SOCIAL SERVICES
## Part V. Community Services
## Subpart 1. General Administration

## Chapter 2. Treatment

### §203. Limitation of Funds for Treatment

A. The purpose of establishing limits on the duration of formal therapy is to encourage the more effective use of available funds and achieve consistency between delivery of treatment and program policy which calls for short term service provision and timely achievement of permanency goals.

B. Treatment of child protection and family services clients and for clients in services to parents (SP) cases in the Foster Care Program will be time-limited and goal directed. No individual, family, or other treatment for these clients shall exceed six months. The only exception is for SP cases. In SP cases, two extensions of up to three months each may be authorized if it appears, based on a review of a detailed treatment plan and current case information, that the goal of reunification or adoption can reasonably be achieved during this time. Treatment in SP cases involving children whose permanency goal is other than reunification or adoption shall not exceed six months.

AUTHORITY NOTE: Promulgated in accordance with Act 15 of 1994 (State Appropriations bill).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:836 (August 1995).

## Chapter 3. Training and Staff Development

### §303. Training for Child Protection Investigation Staff Supervising the Taking of Videotaped Statements

A. OHD/DES staff supervising the taking of the videotaped statement of the child 14 years of age or under who is the victim of rape, physical or sexual abuse which will permit the videotape being used as competent evidence in a court of law shall at a minimum receive 12 hours of agency training that covers the following topics:

1. identification of child abuse and neglect;

2. physical, medical and behavioral indicators of physical and sexual abuse;

3. investigative interviewing and observing techniques;

4. techniques for talking to child victims;

5. techniques in the use of anatomically correct dolls in interviewing the sexually abused child.

B. The verification that the OHD/DES employee has received this training is documented on OHD/DES Form TR-1 which acknowledges the satisfactory completion of the mandated 32 hours of Act 710 Training for new workers and supervisors, and which will include the above cited training requirements or the specified 12 hours of training cited above. The agency's certification, TR-1, is completed by the OHD/DES regional trainer who conducted the training. It specifies the following:

1. employee's name;

2. Social Security Number;

3. position with the agency;

4. title of course;

5. location of training;

6. inclusive date(s) of training;

7. total hours;

8. signature and date of signature of the trainer;

9. an attachment describing the contents of the completed training.

C. Further, the OHD/DES staff person supervising these videotaped interviews shall be required to complete these 12 hours of training every two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:440.4(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development/Division of Evaluation and Services, LR 10:916 (November 1984).

## Chapter 4. Placements

### §401. Interethnic Adoption Provisions

A. The Office of Community Services and its subrecipients involved in adoption or foster care placements may not:

1. deny to any person the opportunity to become an adoptive or a foster parent on the basis of the race, color, or national origin of the adoptive or foster parent, or the child involved; or

2. delay or deny the placement of a child for adoption or into foster care on the basis of the race, color, or national origin of the adoptive or foster parent, or the child involved.

B. The term *placement decision* means the decision to place, or to delay or deny the placement of, a child in a

foster care or an adoptive home, and includes the decision of OCS and its subrecipients to seek the termination of birth parents' rights or otherwise make a child legally available for adoptive placement.

C. Any individual who is aggrieved by an action in violation of '401.A taken by OCS or its subrecipients shall have the right to bring an action seeking relief in a United States district court of appropriate jurisdiction.

D. Nothing in '401 shall be construed to affect the application of the Indian Child Welfare Act of 1978, 25 U.S.C. 1901 et seq.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-188, Section 1808.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 20:898 (August 1994), amended LR 21:1353 (December 1995), LR 24:702 (April 1998).

# Title 67
# SOCIAL SERVICES
## Part V. Community Services
## Subpart 2. Community Services

## Chapter 5. Low Income Home Energy Assistance Program

### §501. Authority

The Low Income Home Energy Assistance Program (LIHEAP) Block Grant provides grants to states for financial assistance to low income families to reduce the burden of home energy costs. The Low Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981) authorized LIHEAP.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, sections 2601-11 (42 U.S.C. 8621-8629).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1116 (November 1991).

### §503. Program Goals

A. The primary goal of the Low Income Home Energy Assistance Program (LIHEAP) is to assist eligible households to meet the cost of home energy for heating and cooling.

B. The second goal is to conserve energy and reduce energy costs of these households through the weatherization of their dwelling units.

C. The third goal is to provide for energy crisis intervention in instances of weather-related and supply shortage emergencies.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, sections 2601-11 (42 U.S.C. 8621-8629).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1116 (November 1991).

### §505. Funding Utilization

A. From the funds made available to the state of Louisiana annually under the Low Income Home Energy Assistance Block Grant, the Office of Community Services (OCS) may make allocations to other programs according to federal law and subject to the approval of a state plan adopted by the State of Louisiana and approved by the U.S. Department of Health and Human Services.

B. Prior to the adoption of a state plan by the agency, the report is made available for public review and written comments and at least one hearing is conducted in a major metropolitan area of the state.

C. The plan is available for review at the Office of Community Services, 333 Laurel Street, Baton Rouge, Louisiana. Costs for copies are established by the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, sections 2601-11 (42 U.S.C. 8621-8629).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1116 (November 1991).

### §507. Administration

A. LIHEAP is administered by the Department of Social Services through the Office of Community Services (OCS). Assistance is delivered through contracts negotiated by the Office of Community Services with designated community action agencies, local governmental units and qualifying recognized Indian tribal organizations.

B. Office of Community Services Responsibilities. The Office of Community Services is responsible for:

1. development of the state plan in accordance with Section 2605 of Title XXVI of Public Law 97-35;

2. establishing policy and providing policy interpretations relating to contract compliance, overall program issues and federal regulations;

3. developing, monitoring and managing contracts for service delivery with providers and providing the providers with technical assistance;

4. monitoring and evaluating the statewide LIHEAP program, utilizing on-site visits, field data collection instruments and service reports in the evaluation process.

C. Responsibilities of Home Energy Assistance Providers. In accordance with state policy and Section 2605 (b) (7) of Title XXVI of the Low Income Home Energy Assistance Act of 1981, as amended, home energy assistance providers are:

1. to conduct outreach activities designed to assure that eligible households, particularly households with elderly individuals or handicapped individuals, are made aware of energy related assistance;

2. to take applications;

3. to determine eligibility;

4. to notify participating households of the amount of assistance paid to vendors on their behalf;

5. to make payments to energy suppliers on behalf of participating households;

6. to effect a written agreement with local home energy suppliers such that the home energy suppliers agree:

a. not to charge eligible assisted households more than the difference between energy assistance payments and actual outstanding home energy bills, or actual monthly rent, should the applicant be a renter and the energy cost is included in the rent;

b. not to treat eligible households adversely because of such assistance under applicable provisions of state law or public regulatory requirements;

c. not to discriminate in the cost of the goods supplied or the services provided against eligible households on whose behalf payments are made.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, sections 2601-11 (42 U.S.C. 8621-8629).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1116 (November 1991).

**§509. Eligibility for Services**

A. Definitions Relating to Eligible Households

*Household*—any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common, or who make payments for energy included in the rent.

*Housing Unit*—a house, a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.

*Income*—all non-exempt gross income received by members of a household on a regular or predictable basis for one month, or all annualized non-exempt income received by members of a household on an irregular or fluctuating basis.

B. Eligible Categories. Home Energy Assistance services are targeted to two eligible categories of individuals:

1. Categorically eligible households are households in which one or more individuals are receiving the following during the month of application and there is no additional income:

a. AFDC (Aid to Families with Dependent Children);

b. SSI (Supplemental Security Income);

c. Food Stamps;

d. Veterans and VA Survivors Pensions under Section 415, 512 or 542 of Title 38 of the United States Code.

2. Income eligible households are households with gross incomes which do not exceed 150 percent of the poverty level as established by the U.S. Department of Health and Human Services.

C. Eligibility Factors

1. LIHEAP service eligibility depends upon a household having a defined need for the service. Any household at least partially responsible for meeting its residential energy costs is considered vulnerable.

2. Households are eligible when the household:

a. is categorically eligible; or

b. is income eligible; and

c. is considered to be vulnerable.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, sections 2601-11 (42 U.S.C. 8621-8629).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1116 (November 1991).

**§511. Allowable Home Energy Payments**

The amount of the energy assistance paid to energy suppliers on behalf of eligible households is based on a formula which is published in a state plan developed by the Office of Community Services in compliance with Title XXVI.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, sections 2601-11 (42 U.S.C. 8621-8629).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1116 (November 1991).

**§513. Service Delivery**

A. Administrative responsibility for reviewing eligibility and certifying households for home energy assistance and weatherization services rests with the individual community action agencies under contract to provide such services. Identification of provider agencies in each parish is contained in the state plan which is available for review at the Office of Community Services.

B. Service Delivery Requirements

1. All property owners and renters shall be treated equitably.

2. A uniform eligibility criterion will be applied to all households requesting heating and cooling benefits.

3. To the degree possible, an application form will be completed at the time an individual requests services and eligibility will be determined at the time the application is taken.

4. In no instance may an eligibility decision (disposition of application) exceed 30 calendar days from the date of application.

5. To the degree possible, a service should be delivered within 15 consecutive working days after the client is notified of his eligibility.

6. In no instance may the date of the service delivery exceed 60 calendar days from the date of the eligibility decision (disposition of application).

7. If the requested service cannot be provided, the client's request for the service shall be denied and he shall be

notified in writing of the denial and given the right to a fair hearing.

8. Recipients of home energy assistance may apply every six months from the previous date of eligibility certification.

9. Notification of amount of assistance paid to vendors on their behalf must be sent to participating households.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, sections 2601-11 (42 U.S.C. 8621-8629).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1116 (November 1991).

### §515. Available Information

The LIHEAP state plan is available for review at local delivery sites and the Office of Community Services, 333 Laurel Street, Baton Rouge, Louisiana. Costs for copies are set by the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, sections 2601-11 (42 U.S.C. 8621-8629).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1116 (November 1991).

## Chapter 7. Social Services Block Grant Program

### §701. Authority

A. The state of Louisiana administers the Social Services Block Grant through the Department of Social Services, Office of Community Services in accordance with Title XX of the Social Security Act as amended and with applicable federal regulations including 45 CFR Part 96 - Block Grants. The Office of Community Services of the Department of Social Services is responsible for the administration and delivery of services through direct provision and purchase of services.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1118 (November 1991), amended LR 18:747 (July 1992).

### §703. Federal Goals of Block Grant Program

A. The goals of the Block Grant Program are:

1. achieving or maintaining economic self-support to prevent, reduce or eliminate dependency;

2. achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

3. preventing or remedying neglect, abuse or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating or reuniting families;

4. preventing or reducing inappropriate institutional care by providing for community-based care, home-based care or other forms of less intensive care;

5. securing referral or admission for institutional care when other forms of care are not appropriate or providing services to individuals in institutions.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1118 (November 1991), amended LR 18:747 (July 1992).

### §705. Services

A. Services provided under the Social Services Block Grant are defined annually in the final Intended Use Report which complies with Section 2004 of the Block Grant Statute and other federal regulations approved by the U.S. Department of Health and Human Services.

B. Prior to the adoption of the Intended Use Report by the agency, the report is made available for public review and written comments and at least one hearing is conducted in a major metropolitan area of the state. Notices are published in the state official journal and other major newspapers announcing public review.

C. Provision of services is based on the following categories of priorities:

1. *Priority 1*—life support services which if denied would place individuals at life threatening risk;

2. *Priority 2*—essential services, although non-life support, would maintain individual health and support the family unit; and

3. *Priority 3*—those services which are important but do not meet the criteria of 1 and 2 above or are available from another source.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1118 (November 1991), amended LR 18:747 (July 1992).

### §707. Eligibility

A. Certain individuals and categories of individuals may be eligible for services according to federal regulations. These are:

1. individuals, without regard to income, who are in need of adoption, child protection investigations, family services and/or foster care/residential habilitation services;

2. individuals without regard to income who are recipients of Title IVE Adoption Assistance as amended by U.S. Public Law 96-272 including adoption assistance recipients who relocate to Louisiana from another state that is signatory to the Interstate Compact on Adoption and Medical Assistance;

3. individuals without regard to income who are currently certified as classmembers in the federal class action judgement "Gary W. et al v. State of Louisiana et al," United States District Court, Eastern District of Louisiana, Civil Action No. 74-2412, who are in need of any service

(including children's day care) provided under the Intended Use Report;

4. recipients of Aid to Families with Dependent Children (AFDC) and those persons whose needs were taken into account in determining the needs of AFDC recipients;

5. recipients of supplemental security income payments, or state supplemental payments, and blind and disabled individuals eligible for such payments except for their earned income;

6. families with gross incomes which do not exceed 125 percent of the poverty level, as published yearly by the U.S. Department of Health and Human Services in the *Federal Register*. "Family" is defined as the basic family unit consisting of one or more adults and children, if any, related by blood or law and residing in the same household:

a. where adults other than spouses reside together, each is considered a separate family;

b. cohabitating non legal spouses are considered separate families;

c. when children are present in the home with non legal spouses, the parent who has primary responsibility for the care of his/her natural children is considered as being in the same family unit with the children;

d. emancipated minors, foster children and children living under the care of individuals not legally responsible for their care are considered one person families.

7. Title XIX (Medicaid) recipients and applicants for Title XIX (Medicaid) vendor payment for skilled nursing facility or intermediate care facility services, residing within the state, are eligible for any appropriate service except day care for children which requires applicants meet additional eligibility criteria which are described in the final Intended Use Report;

8. residents of the Housing Authority of New Orleans projects and related sites are group eligible for necessary and available services with the exception of day care for children, which maintains special eligibility criteria which are described in the final Intended Use Report.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1118 (November 1991), amended LR 18:747 (July 1992).

### §709. Responsibility for Eligibility Determination

Administrative responsibility for determining individuals eligible for direct delivered and vendor day care services, and for certifying groups eligible for services, rests with the Office of Community Services, except for situations where subrecipient contractors may be designated to determine eligibility.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1118 (November 1991), amended LR 18:747 (July 1992).

### §711. Copayments

A. The Office of Community Services may allow for copayments to be collected from recipients of certain services when the cost of providing the services exceeds the Office of Community Services reimbursement rate according to sliding fee scales which may be established by the Department of Social Services. Any sliding fee scales which are adopted during a year are available to the public for review at the Office of Community Services.

B. The copayment collected from a service recipient plus the Office of Community Services' reimbursement rate may meet but shall not exceed the actual cost or usual fee for delivering the service. The family/client will be furnished a copy of the sliding fee scale for their information.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1118 (November 1991), amended LR 18:747 (July 1992).

### §713. Funding

A. The appropriation and allocation of funds are subject to legislative and gubernatorial approval as well as the availability of federal and state funds. Louisiana's federal allotment of Social Services Block Grant funds is determined each fiscal year.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1118 (November 1991), amended LR 18:747 (July 1992).

### §715. Available Information

A. The final Intended Use Report is available for review at the Office of Community Services, 333 Laurel Street, Baton Rouge, Louisiana. Costs for copies are established by the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with P.L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1118 (November 1991), amended LR 18:747 (July 1992).

## Chapter 9. Weatherization Assistance Program

### §901. Authority

A. The Weatherization Assistance Program provides grants to states for material and labor to weatherize dwelling units of low income households, especially the handicapped and elderly. The program was established by Public Law 94-385 of 1976 (42 USC 6861 et seq.) and is funded through Department of Energy appropriated funds, Petroleum Violation Escrow funds and Low Income Home Energy Assistance funds.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, P.L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, P.L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1120 (November 1991).

**§903. Goals of the Weatherization Assistance Program**

A. To reduce national energy consumption, particularly imported oil.

B. To reduce the impact of higher fuel costs.

C. To improve the comfort level of low income families, especially the elderly and handicapped.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, P.L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, P.L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1120 (November 1991).

**§905. Administration**

A. The Department of Social Services, Office of Community Services administers the Weatherization Program through contractual agreements with non-profit contractors located throughout the state. The Office of Community Services is responsible for:

1. preparation of the State Plan and Federal Grant Application;

2. selection of contractors;

3. development of policies and procedures within the parameter of federal regulations;

4. interpretation of policies relating to federal regulations, program issues and compliance;

5. negotiating and monitoring contracts;

6. federal reporting and grants management.

B. Contractors are responsible for the development and implementation of the Weatherization Program which serves the eligible persons in their designated parish.

C. Contractors are selected and evaluated on experience and performance in weatherization, experience in assisting low income persons in the area to be served and the capacity to undertake a timely and effective weatherization program.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, P.L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, P.L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1120 (November 1991).

**§907. Contractor Responsibilities**

A. Contractors are responsible for performing the following in accordance with U. S. Department of Energy pursuant to 10 CFR 440 regulations and policies and procedures by and available from the Office of Community Services:

1. outreach activities designed to assure that eligible households, particularly households with elderly or handicapped individuals, are made aware of the Weatherization Assistance Program;

2. determination of eligibility and documentation of eligibility determination for applicant households;

3. provision of weatherization improvements to residences of eligible low income households;

4. adherence to fiscal specifications regarding expenditures per dwelling unit;

5. coordination of activities with similar and related programs administered by the state and federal government;

6. establishment of fiscal control and fund accounting procedures necessary to assure proper disbursal of and accounting of federal funds paid;

7. preparation and submittal of reports and information required by state and federal program administrators.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, P.L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, P.L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1120 (November 1991).

**§909. Eligibility Factors**

A. Eligibility for the Weatherization Assistance Program is based on verified documented alien status, categorical or income eligibility and dwelling unit eligibility.

1. Alien Status. Certain aliens who have been granted lawful status under Section 245A and Section 210A of the Immigration and Nationality Act are temporarily excluded from participating in the Weatherization Assistance Program. An alien verification form must be completed.

2. Categorical Eligibility. Households are categorically eligible if it is verified that one or more persons are, at the time of application or within the 12 months prior to the application, receiving at least one of the following, and there is or has been no counted income:

a. Aid to Families with Dependent Children (AFDC);

b. Supplemental Security Income (SSI);

c. Food Stamp Benefits;

d. Veterans and Veterans Survivor's Pensions under Section 415, 512, 541 or 542 of Title 38 of the U.S. Code.

3. Income Eligibility. Income eligible applicants are those individuals whose household income is at or below 150 percent of the poverty level determined in accordance with the criteria established by the U.S. Director of the

Office of Management and Budget. Income means total annual cash receipts before taxes from all sources including:

a. money wages and salary;

b. net income from non-farm self employment;

c. net income from farm self employment;

d. Social Security pensions, survivor's benefits and permanent disability insurance;

e. dividends, interest on savings or bonds and unearned income;

f. pensions and annuities;

g. unemployment compensation;

h. workman's compensation;

i. alimony;

j. child support;

k. veteran's pension.

4. Dwelling Unit Eligibility

a. A single family unit shall be eligible if:

i. it is occupied by a family unit who is income eligible; or

ii. contains a member who was categorically eligible during the 12 month period preceding the determination of eligibility;

iii. has been pre-inspected and found to need one or more of the priority measures under '915.

b. A multi-family unit containing rental dwelling units is eligible if all requirements for a single family dwelling unit are met and it meets the following additional criteria:

i. the applicant resident is income or categorically eligible;

ii. the contractor has obtained written permission of the owner to weatherize the dwelling units;

iii. a certain percent of the families (as specified in the state plan) living in the dwelling units are eligible under income guidelines;

iv. the dwelling units are eligible or will become eligible within 180 days under a federal, state or local government program for rehabilitating the building;

v. the contractor has insured the following:

(a). rent shall not be raised because of the increased value of the dwelling units due solely to weatherization assistance provided;

(b). no undue enhancement shall occur to the value of the dwelling units.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, P.L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, P.L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1120 (November 1991).

**§911. Application Process**

A. Applicants for weatherization services should apply to the contractor for the parish in which the applicant resides.

B. The application process includes:

1. a determination of eligibility as per '909;

2. a pre-inspection of the dwelling unit by the contractor to estimate the quantity and cost of materials and labor needed to perform weatherization services;

3. assignment of a priority ranking to the applicant. Applicants are ranked using guidelines which include the following and give priority to the elderly and handicapped:

a. applicant's age;

b. household income;

c. handicap;

d. type of fuel used;

e. length of time application has been on file;

f. condition of the dwelling unit;

g. other factors which in the discretion of the interviewer are not covered in the ranking but take into account other important existing conditions;

4. disposition of the application:

a. households are certified only if they meet all eligibility tests, and a Notice of Eligibility is sent to the applicant;

b. if the requested service cannot be approved, the request is denied, and the applicant is notified in writing giving the reason for the denial and informing the applicant of his right to appeal the decision by requesting a fair hearing;

c. applications are considered incomplete rather than service denied if the applicant fails to follow through in providing necessary verifications.

5. notification of the right to a fair hearing.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, P.L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, P.L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1120 (November 1991).

**§913. Updating Eligibility Information**

A. An applicant who is determined eligible remains eligible for one year with no new documentation required unless new information is acquired that indicates a change in status that could render the applicant ineligible.

B. If one year elapsed since eligibility was determined or if there was a change in status of the applicant, new documentation and a new determination of eligibility is made before any weatherization work is begun.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, P.L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, P.L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1120 (November 1991).

### §915. Types of Weatherization Work

A. The following is a list of mandatory retrofits which must be in place or accounted for before a unit can be reported as a completed unit to the State and U. S. Department of Energy:

1. general heat waste measures (caulking, weatherstripping, replacement panes, windows and doors, hot water heater blanket, set back thermostat, low flow showerhead);

2. insulation of ceilings (R-19);

3. skirting of exposed foundations or floors.

B. The following optional measures are allowable after the mandatory retrofits have been addressed:

1. insulation of floors;

2. insulation of walls;

3. insulation of partially insulated ceilings;

4. storm windows (allowable only if the cost of materials and installation does not exceed per foot cost ceilings established by the U.S. Department of Energy).

C. Limits on expenditures per dwelling unit are established by federal regulations issued by the U. S. Department of Energy at 10 CFR Part 440. Within expenditure limits, an average of at least 40 percent must be spent for materials and no more than 60 percent can be spent on program support. Within established limits, incidental repairs necessary for the effectiveness or preservation of weatherization measures and materials can be done.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, P.L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, P.L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1120 (November 1991).

### §917. Weatherization Standards

A. The Weatherization Assistance Program requires the use of audit procedures to determine the most cost effective weatherization measures. Project Retro Tech is used in Louisiana's Weatherization Assistance Program.

B. Standards for materials and installation are established by the U.S. Department of Energy.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, P.L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, P.L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1120 (November 1991).

### §919. Evaluation of Contractors

A. Contractors are evaluated by the Office of Community Services based on financial and programmatic reports submitted by contractors and results of monitoring and financial reviews conducted by the Office of Community Services personnel.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, P.L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, P.L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1120 (November 1991).

### §921. Available Information

A. Specific information relating to standards for installation and program regulations are contained in the Weatherization Assistance Program State Plan and the Weatherization Assistance Program Policy and Procedure Manual which are available for review in the Office of Community Services, 333 Laurel Street, Baton Rouge, Louisiana. Costs for copies are established by the Division of Administration.

AUTHORITY NOTE: Promulgated in accordance with Title IV, Energy Conservation and Protection Act, P.L. 94-385, 90 Stat. 1150 (42 U.S.C. 6851 et seq.), as amended; Department of Energy Organization Act, P.L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1120 (November 1991).

## Chapter 10. Children's Trust Fund

### §1001. Plan for Preventing Child Abuse and Neglect

A. Pursuant to R.S. 46:2406, the proposed Plan has been submitted to the Joint Committee on Health and Welfare of the Louisiana Legislature for approval prior to adoption by the Louisiana Children's Trust Fund Board. The plan becomes effective subsequent to adoption by the Louisiana Children's Trust Fund Board and will form the basis for future activities of the Children's Trust Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2406.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 20:898 (August 1994), amended LR 23:1326 (October 1997), LR 26:2632 (November 2000).

# Title 67
# SOCIAL SERVICES
## Part V. Community Services
## Subpart 3. Child Protection Services

## Chapter 11. Administration and Authority

### §1103. State Central Registry

A. The Department of Social Services, Office of Community Services, establishes and will maintain a central registry of all reported cases of child abuse and neglect. The purpose of the central registry is to compile information of past reports of child abuse or neglect thus enabling child protection investigation staff to conduct a more complete evaluation of current reports of suspected abuse or neglect of children. All records of reports of child abuse or neglect are confidential in accordance with R.S. 46:56.

1. The Louisiana Children's Code, Article 616, requires the maintenance of a central registry of all reported cases. As part of the investigation, the Office of Community Services Child Protection Investigation worker shall provide to parents written notice of the registry and the rules governing maintenance and expungement of registry records.

a. The Office of Community Services will not maintain records of reports of child abuse or neglect on families or out-of-home caretakers determined to be inherently improbable or false as provided in Article 615 (B)(5) and (6), however, this action shall not take effect until the three-year record retention period required by federal law for audit purposes has expired, counting from the month and year of the final finding. During the three-year record retention period, such records shall be sealed and accessible only to the financial auditors.

b. Records of reports of suspected child abuse or neglect in which the determination is made that the reports appear to be justified will be maintained until the youngest child in the victim's family reaches the age of 18 or five years from the determination, whichever is longer. When, after the investigation, the determination is made by the department that the report does appear to be justified, any subsequent adjudication by a court exercising juvenile jurisdiction which dismisses the child in need of care petition involving this report shall be added to the central registry. Records of reports of child fatalities determined to have been caused by child abuse or neglect will be maintained for 20 years. Records on determinations of caretakers in restrictive care facilities and day care centers in which reports appear to be justified will be maintained for five years, unless there is another justified finding involving the same perpetrator. In those cases, the records will be maintained until there has been no subsequent justified finding for five years. Records on justified findings on foster families, when the child victim is a foster child, will be maintained indefinitely.

c. Any person whose name is included on the central registry may file a rule to show cause against the Department of Social Services in the court exercising juvenile jurisdiction in the parish in which the investigation was conducted to show why the information on file should not be expunged. The Office of Community Services will expunge the petitioner's name and other identifying information upon receipt of a court order to do so. Any expungement order issued by a court shall not take effect as to nonidentifying statistical information on file until the three-year record retention period required by federal law for audit purposes has expired, counting from the month and year of the final finding. During the three-year record retention period, such records bearing the nonidentifying statistical information shall be sealed and accessible only to the financial auditors.

2. The central registry shall release information regarding cases of child abuse or neglect to other states' child welfare agencies upon formal inquiry by that agency, when the inquiry is made pursuant to an ongoing child protection investigation, foster care home study, adoptive home study, or family services case following a child protection investigation in the requesting state, in accordance with R.S. 46:56 F(4)(a). The information may also be released to a private licensed child placing agency located in Louisiana. Information released to such agencies is confidential and will not be released to sources outside the agency.

3. The Office of Community Services will disclose limited information on a State Central Registry records check when requested by an employer or prospective employer of a person who will be exercising supervisory authority over that employer's minor children or other dependent person as part of that person's employment as a caregiver. The written request for the information will be a signed and notarized request form which must be signed by the employee and employer. The form will be provided upon request from the employer, prospective employer, employee or prospective employee. The information which will be disclosed will include whether or not a record of a valid finding of abuse or neglect was found which identifies the employee or prospective employee as a perpetrator. The information will be disclosed to the employer or prospective employer.

4. The Office of Community Services will disclose information in records of reports of child abuse or neglect when requested in writing from persons cited in LA R.S. 46:56 (F)(10)(a). The information to be disclosed includes whether or not the agency has a report which has been determined to be valid, the status of the investigation, the determination made by the department and any action taken by the agency. Action taken by the agency will include the following: case closed, referred for services, continued services, and child taken into custody.

B. Additionally, the Office of Community Services will provide central registry records checks for independent adoptions in accordance with the Louisiana Children's Code.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Children's Code, Title VI, Child in Need of Care, Chapter 5, Articles 615 and 616, and Title XII, Adoption of Children, Chapter 2, Article 1173, and R.S. 14:403(H).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 18:79 (January 1992), amended LR 20:199 (February 1994), LR 21:583 (June 1995), LR 23:590 (May 1997), LR 26:790 (April 2000).

### §1105. Maintenance of Information on Reports and Investigations

A. The Office of Community Services will maintain information on reports of child abuse and/or neglect with final findings of inconclusive on the computer tracking and management system (TIPS) for three years after the determination of the finding. The information will be maintained for the exclusive use of child protection investigators in the course of investigations for the purpose of evaluating the existence of patterns of incidents in pending child abuse or neglect investigations. The information regarding the report and the inconclusive finding shall be confidential and will not be released to other persons or agencies outside of the Office of Community Services.

1. At the end of three years the information will be expunged unless there have been subsequent reports with final findings of inconclusive or valid. When there are subsequent investigations with findings of inconclusive, the information regarding all inconclusive findings will be maintained until there have been no subsequent inconclusive findings for three years. When there are subsequent reports with findings of valid for which a previous inconclusive report was used as part of the basis for the valid finding, the information on inconclusive findings will be maintained until the information on the valid findings is expunged.

B. The case record file of information on the reports and investigations with inconclusive findings will be maintained in the local office for the parish in which the investigation was conducted. The file will be maintained for three years from the date of the determination of the inconclusive finding. At the end of three years the case record will be destroyed in accordance with the completion of state and federal audits.

1. When there are subsequent investigations with findings of inconclusive, the case records for all inconclusive findings will be maintained until there have been no subsequent inconclusive findings for three years. When there are subsequent reports with findings of valid for which the information from the inconclusive report is used as part of the basis for the related valid report, the information on the report and investigation with the inconclusive findings will be included in the file on the valid findings.

AUTHORITY NOTE: Promulgated in accordance with Act 593 of 1999.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 26:96 (January 2000).

## Chapter 13. Intake

### §1301. Child Protection Investigation Report Acceptance

A. Reports will be assigned for investigation when the circumstances of the report indicate either:

1. a cause to believe by the reporter that substantial risk of harm to the child is present and the child's physical, mental, or emotional health is seriously endangered as a result; or,

2. the reporter has cause to believe that abuse or neglect has already occurred.

B. Reports of abuse and/or neglect which provide first hand information of an injury, or of evidence of an injury to a child, such as personal observation of photograph, names of witnesses, medical reports, or police reports, which cause a reporter to believe that a child has been injured or is at substantial risk of injury through the action or inaction of the child's caretaker will be investigated. It is important to understand that in all cases the reported circumstances of the child such as age, health, current condition, and the past history of the family and alleged perpetrator, such as access to the victim, history of violence or neglect, and parental willingness and/or ability to protect the child, could add information that will either establish or weaken the reason to believe that immediate and substantial risk of harm is likely to be present.

C. Response Time. The reports classified as presenting low risk of immediate substantial harm alleged will be assigned a response time of from 24 hours up to 5 calendar days from the date the report was received.

D. Anonymous Reports

1. Reports of alleged child abuse and neglect will be accepted from anonymous reporters.

2. OCS intake staff shall attempt to obtain the reporter's name and address so that follow up contacts are possible in order to clarify information contained in the report and to improve the assessment of risk to the child. The reporter shall be informed of the confidentiality of the reporter's identity and the legal protection from civil or criminal liability for reporters who report in good faith.

E. Bad Faith Reports

1. At any time when OCS staff has reason to believe that a report of child abuse and/or neglect has been made in bad faith, all available information shall be turned over to the district attorney for review.

2. This action would be taken when there is evidence that the reporter made a report known to be false or with reckless disregard for the truth of the report.

F. Residential Care of Children in State Custody. In order to provide some workload relief for child protection and foster care staff in the Office of Community Services, the positions assigned to the Gary W. Program will be transitioned consistent with the federal court's approval of conclusion of OCS activities in the Gary W. case, into monitoring and strengthening of residential foster care programs to prevent occurrence in Louisiana of abusive or neglectful conditions for foster children which resulted in the Gary W. judgment against the state of Louisiana.

G. Nonreports

1. According to the Guidelines for a Model System of Protective Services established by the National Association of Public Child Welfare Administrators, child protective services is a specialized field of child welfare which is not an appropriate service for all child and family-related problems. These guidelines have been used to assist staff in making a determination of those situations which do not constitute a report of child abuse and/or neglect. Response from the public during the recent hearings indicated that the majority of participants were in concurrence with these decisions.

2. Following is a listing of nonreports of child abuse and/or neglect. Brief explanations are included for clarity. If there is a need for medical, mental health, social, or other services to be provided to the child, his/her family, or the caretaker, appropriate referrals for such services will be made.

a. *Sexual Activity* with a sibling or minor perpetrator with no alleged parental/caretaker culpability;

b. *Sexual Enticement/Harassment* and *Unspecified Sexual Abuse* without a specific allegation of sexual abuse by caretaker or parent;

c. *Venereal Disease* in a child age 13 or older without a specific allegation of sexual abuse by caretaker/parent;

d. *Abandonment* of a teenager whose parents want the agency to take custody due to conflict/behavior and other unspecific family or behavior problem which does not include abuse or neglect;

e. *Clothing Inadequate* which does not seriously endanger life or health of the child;

f. *Dependency* due to the substance abuse or mental/physical limitation of a parent which does not incapacitate them from providing minimally acceptable care;

g. *Drug/Alcohol Abuse* by a teenager with or without parental permission;

h. *Educational Neglect* reports shall be referred to the local school board which is charged under Louisiana law with responsibility for enforcing compulsory school attendance;

i. *Food Inadequate* when the reporter expresses concern about the family dietary choices which do not seriously endanger the development, health, or life of a child

j. *Lack of Supervision* of a teenager 13 years or older unless mental capacity, physical condition or situational factors indicate serious threat to life or health of the child;

k. *Medical Neglect* with no strong likelihood of serious consequences such as failure to provide corrective shoes, glasses, or orthodontia;

l. *Shelter Inadequate* which does not seriously endanger the life or health of a child.

H. Reports of abuse/neglect in family day care homes with no allegations of culpability in the abuse/neglect by parents or legal custodians will be assigned a level of risk based on the information provided by the reporter and referred to law enforcement and, when appropriate to the case circumstances, other agencies.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Children's Code, Article 612.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:387 (April 1991), amended LR 18:1246 (November 1992), repromulgated LR 19:165 (February 1993), LR 19:503 (April 1993), amended LR 25:1654 (September 1999), LR 28:102 (January 2002).

**§1303. Time Limits on Acceptance of Reports**

A. Reports will not be accepted when the time period from the alleged abuse or neglect occurrence to the date of the report exceeds the following limits:

1. Physical Abuse

a. severe abuse (i.e., high priority) 12 months;

b. less severe (i.e., medium-low priority) three months unless documentation of the injury such as scars or medical records, continues to be available.

2. Neglect. One month unless the report includes several incidents which would indicate a continuing pattern of neglect.

3. Sexual Abuse. No time limit if the alleged victim remains a minor to whom the alleged perpetrator continues to have access. Reports over 12 months post-occurrence will not be accepted if the perpetrator no longer has access.

B. Reports in which the victim is no longer a minor will not be accepted regardless of time elapsed.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Children's Code, Article 612 G.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:387 (April 1991).

# Chapter 15. Conducting Investigations in Families

### §1501. Audio Tape Recording of Interviews

A. All interviews of the child and his parents conducted in the course of a child protection investigation will be tape recorded, if requested by the parent or parents.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Children's Code, Article 612 C.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services LR 17:1195 (December 1991) and LR 18:198 (February 1992).

### §1505. Relinquishment of Newborns

A. The Department of Social Services, Office of Community Services, establishes procedures for implementation of Title XVII, Relinquishment of Newborns, of the Louisiana Children's Code, for the initial agency response within the Child Protection Investigation Program.

1. Reports that a newborn has been relinquished at a designated emergency care facility will be accepted as a report of child abuse/neglect and immediately assigned to a Child Protection Investigation worker. The worker will respond to secure the safety of the child and obtain immediate medical care if the child is at a location other than a medical facility able to provide the child with immediate medical care.

2. The worker will contact the appropriate court with juvenile jurisdiction and request an instanter order placing the child in the custody of the Department of Social Services as a child in need of care.

3. The worker will contact local law enforcement agencies to request their assistance to determine if the relinquished child may have been reported missing. The agency will also contact the national registry for missing and exploited children to determine if the child has been reported missing to that registry.

B. Once any necessary medical care has been received and the child discharged from the medical facility providing emergency and/or other medical care, OCS will place the child in the foster home which can best provide for his needs. Efforts for the continuance of custody as a child in need of care and the procedure for a termination of parental rights will begin immediately and proceed in accordance with the provisions of Titles VI, Child in Need of Care, and XVII, Relinquishment of Newborns. The child will receive services through the OCS Foster Care and Adoption Programs until the parental rights are terminated and an adoption is finalized or the mother and/or father establish parental rights.

AUTHORITY NOTE: Promulgated in accordance with Article 1705 of the Louisiana Children's Code, Title XVII, Relinquishment of Newborns.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 26:2196 (September 2000), LR 26:2826 (December 2000).

# Title 67
# SOCIAL SERVICES
## Part V. Community Services
## Subpart 4. Family Services

## Chapter 23. Daycare

### §2301. Vendor Daycare Program

A. The Department of Social Services, Office of Community Services will only provide day care services to children who are at risk of abuse and/or neglect and for foster care reasons.

B. Class A Day Care Centers will be reimbursed for services at a rate of $15.00 per day for full-time and $1.87 per hour for part-time.

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

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

### §2303. Criminal Record Checks

A. Any proposed action to revoke a vendor day care agreement shall have prior review by the Department of Social Services, Office of the General Counsel before a final decision is made by the Office of Community Services.

B. Criminal record checks shall be completed by all vendor day care providers on all potential employees. All vendor day care programs, as a condition for participation, shall require that no individual employed or volunteering in the day care center or any other individual affiliated with the center who has or may have supervisory or disciplinary authority over the children in the center shall have been convicted of, pled nolo contendere to, or convicted of attempt or conspiracy to commit the criminal offenses listed in R.S. 15:587.1(c) which are as follows: R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41-45, R.S. 14:74, R.S. 14:78, R.S. 14:80-86, R.S. 14:89, R.S. 14:89.1, R.S. 14:93, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A).

C. If a center fails to remove from its employ an individual who has been convicted of one of the above crimes or who has entered a plea of nolo contendere to one of the above, such failure to terminate employment shall constitute grounds for immediate revocation of the center's provider agreement.

D. The Office of Community Services may terminate a center's participation in the vendor day care program if a center violates state licensing standards applicable to the center and/or the center does not take prompt action to correct the licensing violation.

E. Any knowledge of the above types of situations received by OCS shall be reviewed and acted upon in accordance with these conditions for participation in the vendor care program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1225 (December 1991).

# Title 67
# SOCIAL SERVICES
## Part V. Community Services
## Subpart 5. Foster Care

## Chapter 35. Payments, Reimbursables, and Expenditures

### §3501. Procedures for Determining the Amount of Contribution Required by Parents whose Children are in the Care and/or Custody of the State of Louisiana

A. At initial assessment when children enter the custody of the state, the gross income of the family shall be considered as a base from which to begin the assessment process. From this amount, parents are allowed a deduction of $1500 per dependent in the home. This includes the children who were residing in the home prior to removal. Other deductions shall include the amount of federal and state taxes which were actually paid. The resulting figure shall be the adjusted family income which shall be used to determine the amount of contribution. The amount of the yearly assessment shall be 10 percent of the adjusted family income. Families will be billed monthly amounts, which would then be equal to 10 percent divided into 12 monthly payments. The amount would be the same for the family regardless of the number of children in care, i.e. families which have the same adjusted income but different numbers of children in care would be billed the same amount.

B. At reassessment, the family would no longer be given the dependent deduction for the children who are no longer in the home, however; they shall be given a deduction equal to the amount of contribution which they actually paid the previous year. Dependent deductions for family members in the home and taxes will continue to be allowed. The resulting figure is the adjusted family income. The amount shall be used to determine the amount of contribution. The yearly contribution shall be equal to 10 percent of the adjusted family income. The family will pay this one amount regardless of the number of children who are in care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1225 (December 1991).

### §3503. Reimbursement Rates for Residential Facilities

A. Office of Community Services (OCS) will implement a competitive solicitation process as a means to select all private residential facility-based programs to serve foster children and to establish per diem rates for that residential service. The department's published Prospective Provider Procedure will be followed.

B. Individuals and/or agencies currently providing residential services to OCS foster children and those that contact the Department of Social Services, Office of Community Services (OCS) wishing to provide residential services to foster children funded by OCS are placed on a prospective provider list. All persons and agencies on the list will be notified at the time that the office seeks to develop residential services for foster children in a specific geographic area. The current and prospective residential providers will be mailed a full description of the type and scope of programs sought in geographic areas along with an invitation to submit to OCS a proposal for that service. The notification will include a list of other materials that providers may request/need to assist proposers in preparation of their proposals. The name and telephone number of an OCS representative will be given to prospective providers to contact for more information.

1. A committee of professionals from OCS will evaluate the proposals according to criteria included in the packet of materials. The committee will select the program(s) most fitting the needs of the foster care program.

C. Each proposal will include a submitted per diem cost bid with a budget in accordance with the instructions for the solicitation. This competitive process, resulting selections and final negotiations constitutes OCS's rate setting process as rates will be based on market economy and proposer's fiscal projections for programs. The final rate for each provider can be negotiated down from the bid rate, but in no case will be higher than the bid rate. The use of the residential beds at the rate set through this process will be done on a case-by-case basis by the OCS case worker(s) as the need arises. There are no guarantees of specific sums of monthly or annual payments or referrals of clientele.

D. The department reserves the right to cancel the solicitation if the expenditures for the aggregately selected proposals would result in OCS exceeding available funds. In the event the department cancels the solicitation process, the department will freeze the rates for the current programs at the current amount. For rates issued for the 2000/2001 rate year, the department continues freezing the rates at the 1999/2000 amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1084.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 14:542 (August 1988), amended LR 20:898 (August 1994), LR 25:1144 (June 1999), LR 25:1609 (September 1999), LR 26:1342 (June 2000), LR 27:735 (May 2001).

### §3510. Percentage of Title IV-E Children in Foster Care over 24 Months

A. For the percentage of all children in foster care receiving assistance under the State Title IV-E program who at any given time during the fiscal year will have been in

foster care over 24 months, the department will limit that percentage to 55 percent of the total foster care population.

AUTHORITY NOTE: Promulgated in accordance with 42 USC Sec. 671 (A) (14) of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 27:2263 (December 2001).

# Chapter 37. Case Planning

### §3701. Permanency Plan

Effective April, 1991, a case permanency plan shall be filed with the court when a child enters into custody of the department or into foster care, pursuant to or pending a child in need of care proceeding. The case permanency plan shall be filed no later than 60 days after the child comes into care.

AUTHORITY NOTE: Promulgated in accordance with Act 348 of the 1990 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:387 (April 1991).

# Title 67
# SOCIAL SERVICES
## Part V. Community Services
## Subpart 6. Adoptions

## Chapter 45. Adoption Registries

### §4501. Louisiana Adoption Resource Exchange (LARE)

A. Within ninety days after termination of all parental rights or abandonment, or voluntary surrender to a child-caring agency, any child whose parents' rights have been so terminated and who has not been placed either in a private family home for the specific purpose of effecting an adoption or with a relative who expresses an intent to care for the child until majority, shall be registered with the Louisiana Adoption Resource Exchange (LARE). Upon request, the Department of Health and Human Resources, Office of Human Development, shall provide the forms necessary to effect said registration to all private child-caring agencies. Private child-caring agencies will be requested to include a recent 3" x 5" black and white photograph of each child registered.

B. The Department of Health and Human Resources, Office of Human Development, will maintain a list of the children registered with the Louisiana Adoption Resource Exchange. The listing will be updated no less often than quarterly and will be made available to all licensed child placement agencies in Louisiana. The listing will include a photograph of each child, but will not include the surname of the child or otherwise reveal the identities of the blood parents of the child.

C. As an effort to effect permanent placements by matching potential adoptive parents with available children, the Department of Health and Human Resources, Office of Human Development, may, under established guidelines, utilize media presentations for those children determined to be difficult to place. Subject to confidentiality requirements and the guidelines listed below, such presentations may include newspaper, radio, and television features depicting particular children, describing the adoption process, and explaining how persons interested in adoption may obtain information.

D. Guidelines for Media Recruitment

1. The Department of Health and Human Resources, Office of Human Development, may utilize media presentations involving children who are available for adoption to recruit homes for specific children and to recruit homes for general categories of children who are difficult to place. The children involved are those whose parents are dead, who were abandoned by their parents or in cases where parental rights have been terminated according to state laws. All children will be available for adoption or for a subsidized adoption program. The types of children considered by the agency as "hard to place" in adoptive homes include:

a. sibling groups;

b. black males (not infants);

c. adolescents (over age 10) of any race or sex;

d. children with handicapping (mental or physical) conditions. Most of these children have unique situations or have other extraordinary circumstances which led to their placement in this category.

2. Media recruitment can be used only after a child has been registered with the Louisiana Adoption Resource Exchange (LARE) and every possible effort has been made to find a permanent home for him regionally and statewide, through public and private agencies.

3. The child will be helped to understand to the best of his ability that he is available for adoption and that media recruitment may help in finding an adoptive home for him and other children in similar circumstances. No child will be forced to participate in media recruitment.

4. Media recruitment shall be subject to Louisiana Confidentiality Statutes (R.S. 46:65) as interpreted by the Department of Health and Human Resources, Office of General Counsel. No identifying information concerning the child or his biological parents can be revealed. The social circumstances of the child and his birth parents must be considered in determining appropriate media resources for the child. Media recruitment may not be used within a region where a child's background and circumstances are generally known to the public and could result in embarrassment and humiliation to the child or his biological parents.

5. The child shall be videotaped or photographed in comfortable surroundings while engaged in casual conversation and/or an activity which interests him and reflects his usual level of functioning and ability to interact with other people. The accompanying narrative would give descriptive information about the child's hobbies, interests and abilities and his expressed desires for an adoptive home.

6. Regional homefinders and adoption specialists shall be designated to coordinate media recruitment for their region with the consultation of the Office of Human Development State Office and the Department of Health and Human Resources, Public Information Office.

7. Only free media resources will be used for publicizing recruitment efforts, such as public service announcements, special programming and news programs. The production of these presentations will be accomplished either by Department of Health and Human Resources or by the media resource and supervised by Department of Health and Human Resources.

AUTHORITY NOTE: Promulgated in accordance with Act Number 429 of the 1981 Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development, LR 8:13 (January 1982).

**§4503. Reserved for National Registries**

**§4505. State Voluntary Registry**

A. Eligibility Requirements for Registration. Only persons who meet the following criteria shall be eligible for services of the Department of Health and Human Resources Voluntary Adoption Registry:

1. effective September 6, 1991, adoptees and birth parents may register in the State Voluntary Register when the adoptee reaches 18 years of age;

2. the biological mother of the adopted child;

3. the biological father of the child if (a) the father has signed a voluntary release for the child's adoption in accordance with R.S. 9:402 and R.S. 9:422.3 et seq., or (b) the father has legitimated the child as provided by law.

B. Procedures for Registration. Voluntary registration by the adopted person and/or the biological parents of the adopted person shall be by a typewritten affidavit, filed with the Office of Human Development, Division of Evaluation and Services. All affidavits filed must contain certain minimum identifying information as specified by law. Any other information which the applicant feels will be useful in making the match between the adopted person and the biological parent(s) of the person may be added.

C. Fees for Voluntary Registration. The affidavit submitted to Department of Health and Human Resources, Office of Human Development/Division of Evaluation and Services must be accompanied by a check or money order payable to Department of Health and Human Resources, Office of Human Development/Division of Evaluation and Services in the amount of $25. The fee is charged to cover the cost of establishing the file of registrants and other costs to the Office of Human Development in providing this service.

D. Mandatory Counseling Requirement. Within 30 days of registration with the Office of Human Development, the registrant shall be required to participate in not less than one hour of counseling with a board certified social worker or a social worker employed by a licensed adoption agency. The Office of Human Development will provide the names and addresses of participating agencies to provide counseling service in the state of Louisiana. An adopted person or a biological parent who is domiciled outside the state of Louisiana shall obtain counseling from an appropriate agency in his state of domicile. The licensed adoption agency or social worker shall collect the cost of counseling services from persons who are able to pay all or part of the cost of services provided.

E. Matching the Adopted Person and the Biological Parent

1. The Office of Human Development shall regularly monitor registrant affidavits to determine whether or not affidavits have been filed by an adopted person and his biological parent(s). If there appears to be a match between an adopted person and a biological parent, the Office of Human Development shall notify a licensed adoption agency located in or near the parish residence of the adopted person. The agency notified shall delegate a social worker in its employ or a BCSW to contact the registered and matched parties in a careful and confidential manner, and give the information necessary to contact each other.

2. If the Office of Human Development has any doubt that there is a match between the adopted person and biological parent the parties shall be advised to petition the district court having jurisdiction to open the sealed adoption record for verification. The court may appoint an ad hoc curator for this purpose.

F. Time Limit on Registration

1. The registration will remain in effect indefinitely. The registration may be withdrawn by the adoptee or birth parent at any time by a written request.

2. If both birth parents of an adopted person are deceased and if this fact is known by the Office of Human Development or the licensed adoption agency which originally placed the adopted person, this information shall be disclosed to the adopted person.

G. Confidentiality. Notwithstanding the provisions of R.S. 44:1 et seq., documents filed with the Office of Human Development, pursuant to the provisions of this law shall be confidential and not available for inspection; nor shall any information acquired by the Voluntary Registry be disclosed under any sunshine or freedom of information legislation, rules, or practice. No person, group of persons, or entity may file a class action to force the voluntary registry to disclose identifying information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:91(D) and 92(B) as amended and re-enacted by Act 519 of the 1991 Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development/Division of Evaluation Services, LR 9:415 (June 1983). Repealed by the Department of Social Services, LR 18:79 (January 1992). Promulgated by the Department of Social Services, Office of Community Services, LR 17:952 (October 1991), amended LR 18:22 (January 1992), repromulgated LR 18:198 (February 1992).

# Chapter 47. Adoption Services

**§4701. Voluntary Surrender of a Child**

A. Persons who execute an act of legal surrender of a child to the Department of Health and Human Resources shall execute therewith a written statement of family history. That statement shall contain the following non-identifying information, if known:

1. ages of the biological parents; and,

2. an explicit and extensive medical genetic history of the biological parents and their immediate families.

B. This statement will be made part of the sealed adoption record and shall be given to the adoptive parents at the time of adoptive placement. Upon attaining the age of

eighteen, the adoptee shall, upon request, be given a copy of the statement.

C. Within 15 days following an act of voluntary surrender of a child to the Department of Health and Human Resources, a copy of the surrender will be sent to the court exercising jurisdiction over the child.

AUTHORITY NOTE: Promulgated in accordance with Acts 717 and 429 of the 1981 Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development, LR 7:630 (December 1981).

# Chapter 49. Adoption Subsidy Program

## §4901. Subsidizing the Adoption of Children with Special Needs

A. Overview of Program Purpose

1. The subsidized adoption program enables the Department of Social Services to make payments to adoptive parents on behalf of a child who otherwise might not be adopted because of special needs or circumstances. Subsidy payments shall be limited to a child(ren) for whom adoption is indicated but placement through existing resources is unavailable because of the child's physical or mental condition, race, age, membership in a sibling group which should not be separated, or other serious impediments or special needs. The adoption subsidy applies to a special needs child for whom the Department of Social Services holds full and permanent custody prior to the adoptive placement or to a special needs child, SSI or AFDC eligible, for whom a private nonprofit agency holds custody and to nonrecurring adoption expenses only for special needs children who are adopted independently. The adoption laws of the state of Louisiana shall be adhered to, and the granting of a subsidy shall not affect the legal status of the child nor the rights and responsibilities of the adoptive parents.

2. The prospective adoptive family must meet basic adoption eligibility requirements in all respects except for the ability to assume complete financial responsibility for the child's care.

B. Types of Subsidy. The child may be subsidized for the following services up to age eighteen:

1. Maintenance. The maintenance subsidy includes basic living expenses such as board, room, clothing, spending money, and ordinary medical and dental costs. The maintenance supplement may be ongoing, but must be renewed on a yearly basis. The amount of payment shall not exceed 80 percent of the state's regular foster care board rate based on the monthly flat rate payments for the corresponding age group. Changes in the maintenance subsidy rate care may occur once a year and the adjustment is made at the time of a change in the child's age group. The monthly maintenance shall not be based on specialized foster care arrangements such as Subsidized Foster Care, Alternate Family Care, or Therapeutic Foster Care.

2. Special Board Rate

a. Foster parents adopting a foster child for whom a special board rate was received may request up to a maximum of 80 percent of the special board rate amount of $300. This includes adoptive parents who were not previously certified as the child's foster parent(s), if the care and needs of the child in the adoptive home warrant this same special board rate. Therefore, under the Adoption Subsidy Program, the special board component for these types homes shall not exceed $240. The continued need for the special board rate shall be reviewed at the time of the annual review.

b. For the child placed in a Subsidized Foster Home, Alternate Family Care facility, or a Therapeutic Family Care facility, the maximum amount of the special board component of the adoption subsidy shall not exceed $258. This amount equals the Family Support Case Subsidy (administered by the Division of Mental Retardation and Developmental Disabilities) authorized for the care of special needs children who are in their own homes.

3. Special Services

a. The special services subsidy is time limited and in some cases may be a one time payment. It is the special assistance given to handle an anticipated expense when no other family or community resource is available. If needed, it can be offered in addition to the maintenance subsidy. Special services subsidies include the following type needs:

i. special medical costs for the child in connection with any physical or mental condition which existed prior to the date of the initial judgement of adoption;

ii. dental, psychiatric, or psychological expenses, special equipment, prosthetic devices, or speech therapy;

iii. other services determined to be medically necessary for the care, training and education of the child; and,

iv. legal and court costs of adoption under special circumstances.

b. Assessment must be made of the adopting family's medical insurance and of other public and voluntary community services to determine whether the costs of treatment and related costs can be covered in part or in whole by insurance and by other community services.

c. Reimbursement for special services will be limited to the usual and customary fee in the community where such services are rendered.

C. Exploration of Adoptive Resources

1. Before a child is certified by the Office of Community Services as eligible for a subsidy, resources for adoptive placement without such benefits must be explored by the adoption worker. This will include recruitment of adoptive parents, registrations for a reasonable period on state, regional, and/or national adoption resources exchanges, and referral to appropriate specialized adoption agencies.

2. Whenever an eligible child has been available for adoption for at least six months and every reasonable effort has been made to place the child for adoption with Louisiana

residents, adoptive parents from other states shall be eligible for a subsidy under the same conditions as Louisiana residents, except where the other state has a subsidized adoption program that is available to such non-resident parents.

D. Eligibility Criteria

1. Non IV-E Placements

a. The income scale determining eligibility for the non IV-E maintenance subsidy shall be utilized by the Department of Social Services, Office of Community Services to determine eligibility for non IV-E benefits. The scale is based on 115 percent of Louisiana's median income for a family of four, adjusted for family size as published by the U.S. Department of Health and Human Services. Figures in the column on the left refer to the number of family members, including the adoptive child(ren). Figures in the column on the right refer to family gross income. Persons living in the household who are not dependent on the adoptive family's income even though related, are not counted. Families whose income falls below the figures in the right column may apply for subsidy.

b. The Office of Community Services, Adoption Subsidy Program, will determine the appropriateness of subsidy benefits, the type of subsidy, and the level of the subsidy. An agreement form between the Office of Community Services and the prospective adoptive parents with clearly delineated terms must be signed prior to the granting of the final decree.

c. Income Chart

| Family Size | Gross Annual Income |
|---|---|
| 1 person | $ 15,399 |
| 2 persons | $ 20,137 |
| 3 persons | $ 24,875 |
| 4 persons | $ 29,614 |
| 5 persons | $ 34,352 |
| 6 persons | $ 39,090 |
| 7 persons | $ 39,978 |
| 8 persons | $ 42,867 |
| 9 persons | $ 42,052 |
| 10 persons | $ 42,940 |
| 11 persons | $ 43,829 |
| 12 persons | $ 44,717 |
| 13 persons | $ 45,606 |
| 14 persons | $ 46,493 |

d. For each additional family member above 14 persons, add $888 to the gross annual income.

2. IV-E Placements. Federal regulations prohibit the use of an income eligibility requirement (means test) for prospective adoptive parents in determining the availability of payments or other types of adoption assistance. The otherwise eligible child who has met the "special needs" requirements in Section 473 (c) of the Social Security Act will be eligible for payments and other types of services and assistance under the Title IV-E Adoption Assistance Program. Parents with whom such a child is placed for adoption are eligible to receive Title IV-E payments and other assistance on behalf of that child, under an agreement with the state agency.

E. Effects of Deaths of Adoptive Parents on Adoption Subsidy

1. Where an adoption subsidy agreement is in effect and the adoptive parents die prior to the adopted child reaching the age of majority, the duly designated tutor or guardian of the child may continue to receive subsidy payments on behalf of the child provided that the tutor or guardian is capable of providing a permanent home for the child in all respects other than financial, and the child's needs are beyond the resources of the tutor or guardian. In these situations, the child who was Title IV-E eligible prior to the death of the adoptive parent(s) shall cease being eligible for these federal benefits. The child's medicaid certification as a Title IV-E adoption subsidy child shall be closed and re-opened as a non IV-E adoption subsidy child. The tutor or guardian should be encouraged to apply for survivors benefits for the child and/or AFDC.

2. It is extremely important to note that if the child is Title IV-E eligible, Section 473 (a)(i) of the Social Security Act (the Act) prohibits the transfer of this benefit to the guardian. The Act makes no provision for payments to be made to the child or others, such as a tutor/guardian. Therefore, in these situations, the payments made by the Adoption Subsidy Program are funded with all state dollars.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1790-1792 and P.L. 96-272 (Title IV-E).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development, LR 4:388 (October 1978), repealed in error by the Department of Social Services, Office of Community Services, LR 18:79 (January 1992), reinstated and amended LR 18:965 (September 1992).

**§4903. Nonrecurring Expenses in Adoptions**

A. The Office of Community Services sets forth criteria for reimbursement of nonrecurring expenses associated with the adoption of children with special needs.

1. The amount of the payment made for nonrecurring expenses of adoption shall be determined through agreement between the adopting parent(s) and the Office of Community Services. The agreement must indicate the nature and amount of the nonrecurring expenses to be paid.

2. The agreement for nonrecurring expenses must be signed prior to the final decree of adoption.

3. There must be no income eligibility requirement (means test) for adopting parents in determining whether payments for nonrecurring expenses of adoption shall be made. However, parents cannot be reimbursed for out-of-pocket expenses for which they have otherwise been reimbursed.

4. To be eligible, the child must meet the criteria previously established by the Office of Community Services to be designated as a "child with special needs." Furthermore, the child must have been placed for adoption in accordance with applicable state laws.

5. The rate of reimbursement for nonrecurring expenses has been set at $1,000 per adoption.

6. In cases where siblings are placed and adopted, whether separately or as a unit, each child is treated as an individual with separate reimbursement for nonrecurring expenses up to the maximum amount allowable for each child.

7. Reimbursement is limited to costs incurred by or on behalf of adoptive parents that are not otherwise reimbursed from other sources. Payments for nonrecurring expenses shall be made directly by the Office of Community Services.

8. When the adoption of the child involves interstate placement, the state that enters into an adoption subsidy agreement will be responsible for paying the nonrecurring adoption expenses of the child. In cases where there is interstate placement but no agreement for other federal or state adoption assistance (subsidy), the state in which the final adoption decree is issued will be responsible for reimbursement of nonrecurring expenses if the child meets the definition of a "child with special needs."

9. The term nonrecurring adoption expenses means reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child with special needs, which are not incurred in violation of state or federal law, and which have not been reimbursed from other sources or other funds. Other expenses which are directly related to the legal adoption of a child with special needs means the costs of the adoption incurred by or on behalf of the parents and for which parents carry the ultimate liability for payment. Such costs may include the adoption home study, including health and psychological examinations, supervision of the placement prior to finalization of the adoption, transportation and the reasonable costs of lodging and food for the child and/or the adoptive parents when necessary to complete the placement or adoption process.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 1356, as published in the *Federal Register* on December 14, 1988, Section 1711 of the Tax Reform Act of 1986 as it relates to the Adoption Assistance Program under Title IV-E, and Act 345 of the 1990 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:386 (April 1991).

# Chapter 51. Adoption Petition Program

### §5101. Certificate of Adoption in Private Adoptions

A. Any prospective adoptive parent in a private adoption shall obtain a Certificate of Adoption prior to physically receiving the child except when the child is the step-child, grandchild, sibling, niece, or nephew of one of the prospective adopting parents.

B. Definitions

1. Certificate of Adoption means that a person who applies to adopt a child privately is certified as qualified to adopt in accordance with the Louisiana Children's Code. A Certificate of Adoption is valid a minimum of two years and a maximum of four years without an update being required. A Certificate of Adoption can be revoked for just cause.

2. Any prospective adoptive parents in this Section means any couple who is adopting any child except persons who may petition for intrafamily adoption. The following persons may petition for an intrafamily adoption:

a. a stepparent married to the parent of a legitimate child;

b. a single grandparent or married grandparents of a legitimate child when the child has been in the grandparent's home for six months prior to the filing of a petition for adoption.

When the spouse of the stepparent or one joint petitioner dies after the petition has been filed, the adoption proceedings may continue as though the survivor was a single original petitioner.

C. There are two procedures by which a valid Certificate of Adoption may be obtained by any prospective adoptive couple in Louisiana attempting to adopt privately. Any out-of-Louisiana prospective adoptive couple must also comply with the Louisiana Interstate Compact on Placement of Children.

1. The prospective adoptive couple may apply for a court order approving the placement of a child in their home. The court shall be of proper venue in state of Louisiana.

a. The application for court approval of adoptive placement shall be verified and shall contain the following:

i. the name, address, age occupation, and marital status of the prospective adoptive parents;

ii. expected date of the child's placement;

iii. relationship between the child and the prospective adoptive parent, if any;

iv. the name of the child whose placement is requested, if known.

b. This application for court approval of adoptive placement shall be filed with the clerk of a court of appropriate venue as authorized in Louisiana's Children's Code.

c. The application for court approval of adoptive placement shall be set for hearing in chambers, confidentially, and in a summary manner within 48 hours of its filing.

d. At the hearing, the prospective adoptive parents shall testify under oath concerning their fitness to receive the child into their care and custody, including but not limited to:

i. their moral fitness, previous criminal records or validated complaints of child abuse or neglect, if any;

ii. their mental and physical health;

iii. their financial capacity and disposition to provide the child with food, clothing, medical care, and other material needs;

iv. their capacity and disposition to give the child love, affection, and guidance and to undertake the responsibilities of becoming the child's parents;

v. the adequacy of the physical environment of their home and neighborhood for the placement of the child;

vi. the names and ages of other family members who would reside with the child in the prospective adoptive home and their attitude toward the proposed adoption;

vii. the stability and the permanence, as a family unit, of the proposed adoptive home.

e. At the conclusion of the hearing, the court shall render an order approving or disapproving the placement of the child with the prospective adoptive parents.

f. The order shall be in writing and signed by the judge.

g. A certified copy of the court order approving the adoptive placement shall be given to the prospective adoptive parents. This certified court order is the Certificate of Adoption if approval is granted.

h. Any order disapproving the adoptive placement shall include specific reasons therefor.

i. Any perjury, withholding of information or misleading statements, during this hearing, may be grounds for revocation of the Certificate of Adoption, or for revoking the adoption itself.

j. The court may issue an instanter order taking protective custody of the child if this information, if known, together with other evidence presented at the hearing would have resulted in the court's disapproval of the adoptive placement.

2. The second procedure for obtaining a Certificate of Adoption is that any person qualified to adopt in Louisiana may request a social worker in the employ of a licensed child placing agency, a board certified social worker, or a licensed counselor, psychologist, or psychiatrist to conduct a home study before the physical placement of the child in the home. Those people or agencies doing the home study shall be licensed in their respective fields in the state of Louisiana.

a. This home study must address, as appropriate, in writing, all the items in the following sections of the Louisiana Administrative Code, namely:

i. LAC 48:4115.C Adoptive Home Study;

ii. LAC 48:4115.D Notification Regarding Application;

iii. LAC 48:4115.E Access to Records;

iv. LAC 48:4115.F Updating Home Study;

v. LAC 48:4115.H Review Procedure;

vi. LAC 48:4115.I Adoptive Parents' Records.

b. In addition to the home study, the application for Certificate of Adoption must also contain a request for the court to order a criminal records check for all federal and state arrests and convictions, and validated complaints of child abuse or neglect, respectively, in this or any other state specified for each prospective adoptive parent. This check shall provide a certificate indicating all information discovered or that no information has been found.

c. Attorneys representing prospective adoptive couples living in Louisiana for private adoptions must request the court having jurisdiction to order a Louisiana child abuse/neglect records check from the Office of Community Services Regional Office for the parish of residence of the prospective adoptive couple with the results of said check to be submitted in writing to the court. The court order shall be sent to the attention of the Adoption Petition Unit.

d. The mailing addresses of the regional offices of the Office of Community Services where this form may be obtained are as follows:

i. New Orleans Regional Office, Box 57149, New Orleans, La. 70157-7149;

ii. Baton Rouge Regional Office, Box 66789, Baton Rouge, La. 70896;

iii. Lafayette Regional Office, 1353 Surrey Street, Lafayette, La. 70501;

iv. Lake Charles Regional Office, Box 16865, Lake Charles, La. 70616;

v. Alexandria Regional Office, Box 832, Alexandria, La. 71309;

vi. Shreveport Regional Office, 801 State Office Building, 1525 Fairfield Avenue, Shreveport, La. 71101-4388;

vii. Monroe Regional Office, Box 3047, Monroe, La. 71210;

viii. Thibodaux Regional Office, Box 998, Thibodaux, La. 70302-0998.

e. The prospective adoptive couple at the end of this home study shall be given a Certificate of Adoption if favorable in the judgement of the contracted person doing the home study in accordance with Louisiana's Children's Code. If there is a disapproval, the prospective adoptive couple shall be informed in writing of the reason for the disapproval.

f. Payment of the home study is at the petitioner's expense.

D. The Department of Social Services, Office of Community Services in carrying out the duties as detailed in the Children's Code, Title XII, Chapter 10, Article 1229 (A) shall include in the report to the court a copy of the Certificate of Adoption for the prospective adoptive couple or report to the court in writing that no Certificate of Adoption has been obtained in accordance with the Louisiana Children's Code.

AUTHORITY NOTE: Promulgated in accordance with the Children's Code, Title XII, Chapter 2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 18:141 (February 1992), amended LR 18:747 (July 1992).

### §5103. When the Petitioner is the Stepparent of the Adoptee

A. OHD/DES shall no longer provide a full investigation and court report in stepparent adoptions unless so ordered by

the court. Henceforth, adoption petition workers shall investigate stepparent adoptions only to the extent necessary. The investigation shall:

1. determine the availability of the child for adoption; and,

2. where the child is age 13 or over, determine the circumstances of the child and his/her attitude toward the adoption.

B. The investigation and court report shall cover the following areas depending on the circumstances of the case.

1. Availability of the child for adoption:

a. name, birthdate and birthplace of child as verified by birth certificate when available;

b. relationship of child to petitioner(s);

c. legal status of petitioner(s) i.e. verification of current marriage and previous deaths/divorces effecting status;

d. name of legal/biological parents and information concerning their attitude about the adoption and awareness of the implications.

2. Information on the child:

a. child under 13:

i. age of the child(ren);

ii. length of time child has resided with the petitioner(s);

iii. how the child came into the home of the petitioner(s);

b. child 13 or over:

i. age of the child(ren);

ii. length of time child has resided with the petitioner(s);

iii. how the child came into the home of the petitioner(s);

iv. description of child including physical characteristics, personality, general health (no physical exam required), grade placement, and activities;

v. child's adjustment;

vi. child's relationship with petitioners and others in the home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:427.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development, Division of Evaluation and Services, LR 10:342 (April 1984).

**§5105. Intercountry Adoptions**

The Department of Health and Human Resources, Office of Human Development, hereby adopts Intercountry Adoptions Policy. This policy authorizes certain consenting licensed private child placing agencies to conduct and certify the validity of home studies; to contract with qualified professionals to complete home studies; and to certify the validity of home studies completed by professionals under contract with them to complete home studies; certifying to the U.S. Immigration and Naturalization Service that the Louisiana prerequisite of a valid home study has been completed as required before an intercountry adoption can be consummated.

AUTHORITY NOTE: Promulgated in accordance with the United States Immigration and Nationality Act of 1952, as amended (Title 8, U.S.C. aliens and nationality).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development, LR 8:13 (August 1981).

# Title 67
# SOCIAL SERVICES
# Part VII. Rehabilitation Services

## Chapter 1. Vocational Rehabilitation Policy Manual

### §101. Agency Profile

A. Mission. To assist persons with disabilities in their desire to obtain or maintain employment and/or to achieve independence in their community by providing rehabilitation services and by working cooperatively with business and other community services.

B. Program Administration. Louisiana Rehabilitation Services, hereafter referred to as LRS, will secure appropriate resources and support in administering the various programs under the responsibility of the agency. These programs include, but are not limited to:

1. Vocational Rehabilitation Program;

2. Title VII Part B Independent Living Program;

3. Louisiana Commission for the Deaf;

4. Title VI Supported Employment Program;

5. Randolph-Sheppard Blind Vending Facility Program;

6. Personal Care Attendant Program;

7. Community and Family Support Program;

8. Traumatic Head and Spinal Cord Injury Trust Fund (THSCI).

C. The Manual's Function. This manual sets forth the policies of LRS in carrying out the agency's mission, specifically as this mission relates to the Vocational Rehabilitation Program.

D. Exceptions. The director or designee shall have the sole responsibility for any exceptions to this policy manual.

E. Nondiscrimination. All programs administered by and all services provided by LRS shall be rendered on a nondiscrimination basis without regard to handicap, race, creed, color, sex, religion, age, national origin, duration of residence in Louisiana, or status with regard to public assistance in compliance with all appropriate state and federal laws and regulations to include Title VI of the Civil Rights Act of 1964.

F. Compliance with State Laws, Federal Laws and Regulations, and Departmental Policies and Procedures. Staff shall comply with all state and federal laws, agency and civil service rules and regulations, Title I of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA) of 1990 (Public Law 101-336).

G. Cost-Effective Service Provision. Services shall be provided in a cost-effective manner.

H. Records

1. A record must be maintained for each applicant/client and shall contain documentation to support a counselor's decision regarding eligibility, Order of Selection, and subsequent decisions to provide, deny, or amend services.

I. Data Collection. Staff shall ensure the provision of client and financial data necessary for the operation of the agency's information and financial system as well as the Blind Registry.

J. Expeditious Service Delivery. All referrals, applications and provision of services will be handled expeditiously and equitably.

K. Client Assistance Program. All programs, including community rehabilitation programs, and projects that provide services to individuals with disabilities under this Act shall advise such individuals, or the parents, family members, guardians, advocates, or authorized representatives of the individuals, of the availability and purposes of the client assistance program, including information on means of seeking assistance under such program.

L. Equal Employment Opportunities

1. LRS will comply with Title VII of the Civil Rights Act of 1964 as amended, and Title V of the Rehabilitation Act of 1973 as amended.

2. In addition, all community rehabilitation programs supported by grants or funding from the Rehabilitation Services Administration, must be operated in compliance with these laws.

M. Affirmative Action Plan. LRS will take affirmative action to ensure that the following will be implemented at all levels of administration: recruit, hire, place, train and promote in all job classifications without regard to non-merit factors such as race, color, age, religion, sex, national origin, disability or veteran status, except where sex is a bona fide occupational qualification.

N. Comprehensive System of Personnel Development. LRS will provide a comprehensive system of personnel development in accordance with the Rehabilitation Act Amendments of 1998.

O. *Applicant/Client*—For purposes of representation, the term *applicant/client* refers to an individual who has applied for vocational rehabilitation services or in certain cases, a parent, or family member, or guardian, an advocate, or any other authorized representative of the individual.

P. Cooperative Agreements. LRS will use services provided under a cooperative agreement as comparable services and benefits.

Q. Services to American Indians with Disabilities. LRS will provide vocational rehabilitation services to American Indians with disabilities to the same extent that these services are provided to other individuals with disabilities which will include, as appropriate, services traditionally available to Indian tribes on reservations.

R. Misrepresentation, Fraud, Collusion, or Criminal Conduct

1. Individuals who obtain access to the services provided by LRS through means of misrepresentation, fraud, collusion, or criminal conduct shall be held responsible for the return of funds expended by LRS on the individual's behalf. Further, such actions shall result in the closure of the individual's vocational rehabilitation case record. Failure on the individual's part to make reparation of funds to the agency may result in legal action being taken by LRS.

2. In cases in which LRS is in possession of clear evidence of misrepresentation, fraud, collusion, or criminal conduct on the part of the individual for the purpose of obtaining services for which the individual would not otherwise be eligible, the individual's case will be referred to the Department of Social Services, Bureau of General Counsel for consultation and/ or investigation. If Department of Social Services, Bureau of General Counsel concurs or determines that the individual has obtained services through misrepresentation, fraud, collusion, or criminal conduct, a certified letter will be directed to the individual by the LRS Counselor demanding payment in full of funds which have been expended by the agency on the individual's behalf. The failure of the individual to comply with the demand for reparation may result in legal action being taken on behalf of LRS.

S. Informed Choice. LRS shall provide information and support services to assist applicants and eligible individuals in exercising informed choice throughout the rehabilitation process, consistent with the following:

1. to inform each applicant and eligible individual through appropriate modes of communication;

2. to assist applicants and eligible individuals in exercising informed choice in decisions related to the provision of assessment services;

3. to maintain flexible procurement guidelines and methods that facilitate the provision of services;

4. to provide or assist eligible individuals in acquiring information necessary to develop the components of the Individualized Employment Plan.

T. Construction. Nothing in this Policy Manual shall be construed to create an entitlement to any vocational rehabilitation service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 25:1263 (July 1999).

**§103. Enabling Legislation**

A. The Rehabilitation act Amendments of 1998, as contained in H.R. 1385, Workforce Investment Act of 1998.

B. Code of Federal Regulations. Volume 34, Sections 361, 363, 365, and 370.

C. Louisiana Revised Statutes

1. R.S. 49:664, Section 6B (1)(b) (Legislative Act that created the Department of Health and Hospitals), R.S. 36:477(c) (Legislative Act that created the Department of Social Services).

2. R.S. 46:331-335 mandates that a register be maintained of all persons known to be legally blind in the state. (Louisiana Rehabilitation Services maintains and regularly updates the Blind Registry.)

3. Act 19 of 1988 effected the merger of the Division of Rehabilitation Services with the Division of Blind Services to form Louisiana Rehabilitation Services.

4. Act 109 of 1984, R.S. 39:1595.3, and Act 291 of 1986, R.S. 39:1594(I), enacted and authorized the State Use Law.

5. Act 10 of 1994, R.S. 18:59(I)(2), 61(A)(1), 62(A), 103(A), enacted and authorized to provide for the implementation of the National Voter Registration Act of 1993.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:473 (May 1995), LR 25:1265 (July 1999).

**§105. Confidentiality**

A. General Statement. All client information is confidential. All personal information in the possession of the state agency shall be used only for purposes directly connected with the administration of the program.

B. Notification to Clients. Individuals asked to supply the agency with information concerning themselves shall be informed of the agency's need to collect confidential information and the policies governing its use, release, and access including:

1. the Consent to Release Case Record Information form contained in case files which must document that individuals have been advised of the confidentiality of information pertinent to their case;

2. the principal purpose for which the agency intends to use or release the requested data;

3. whether the individuals may refuse, or are legally required to supply the requested data;

4. any known consequence arising from not providing the requested information;

5. the identity of other agencies to which information is routinely released.

C. Release of Confidential Information

1. The case file must contain documentation concerning any information released with the individual's written consent. Informed written consent is not needed for the release of personal records to the following:

a. public assistance agencies or programs from which the client has requested services or to which the client is being referred for services under the circumstances for which the client's consent may be presumed;

b. the Louisiana Department of Labor and military services of the United States government;

c. doctors, hospitals, clinics and rehabilitation centers providing services to clients as authorized by Louisiana Rehabilitation Services;

d. schools or training centers, when LRS has authorized the service or is considering authorizing such services, and the information is required for the client's success in the program, for the safety of the client, or is otherwise in the client's best interest.

2.a. Confidential information will be released to an organization or an individual engaged in research, audit, or evaluation only for purposes directly connected with the administration of the state program (including research for the development of new knowledge or techniques which would be useful in the administration of the program).

b. Such information will be released only if the organization or individual furnishes satisfactory assurance that:

i. the information will be used only for the purpose for which it is provided;

ii. that it will not be released to persons not connected with the study under consideration; and

iii. that the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the state agency without written consent of such person and the state agency.

c. Information for research, audit, or evaluation will be issued only on the approval of the director.

d. The client must be advised of these conditions.

6. LRS may also release personal information to protect the individual or others when the individual poses a threat to his/her safety or to the safety of others.

D. Client Access to Data. When requested in writing by the involved individual or an authorized representative, clients or applicants have the right to see and obtain in a timely manner copies of any information that the agency maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the individual's physical or mental health;

2. medical, psychological, or other information which the counselor determines harmful to the individual;

NOTE: Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the individual's representative, or a physician or a licensed or certified psychologist.

3. personal information that has been obtained from another agency or organization. Such information may be released only by or under the conditions established by the other agency or organization.

E. Informed Consent. Informed consent means that the individual has signed an authorization to release information and such authorization is as follows:

1. in a language that the individual understands;

2. dated;

3. specific as to the nature of the information which may be released;

4. specifically designates the parties to whom the information may be released;

5. specific as to the purpose(s) for which the released information may be used;

6. specific as to the expiration date of the informed consent which must not exceed one year.

F. Confidentiality**C**HIV Diagnosis. Each time confidential information is released on applicants or clients who have been diagnosed as HIV positive, a specific informed written consent form must be obtained.

G. Court Orders, Warrants and Subpoenas. Subpoenaed case records and depositions are to be handled in the following manner:

1. with the written informed consent of the client, after compliance with the waiver requirements (signed informed consent of client or guardian), the subpoena will be honored and/or the court will be given full cooperation;

2. without the written informed consent of the client, when an employee is subpoenaed for a deposition or receives any other request for information regarding a client, the employee will:

a. inform the regional manager or designee of the request;

b. contact the attorney, or other person making the request, and explain the confidentiality of the case record information; and request that such attorney or other person obtain a signed informed consent to release information from the client or guardian;

c. inform the regional manager or designee if the above steps do not resolve the situation. In this case, the regional manager or designee will then turn the matter over to the Department of Social Services' legal counsel.

3. when an employee is subpoenaed to testify in court or to present case record information in court concerning a client, the employee is to do the following:

a. notify the regional manager or designee;

b. honor the subpoena;

c. take subpoenaed case record or case material to the place of the hearing at the time and date specified on the subpoena;

d. if called upon to testify or to present the case record information, inform the court of the following:

i. that the case record information or testimony is confidential information under the provisions of the 1973 Rehabilitation Act and amendments;

ii. the subpoenaed case record information is in agency possession;

iii. agency personnel will testify and/or release the case record information only if ordered to do so by the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 22:993 (October 1996), repromulgated LR 25:1265 (July 1999).

**§107. Applicant/Client Appeal Rights**

A. Administrative Review

1. The administrative review is a process which may be used by applicants/clients (or as appropriate the applicant's/client's representative) for a timely resolution of disagreements. However, this process may not be used as a means to delay a fair hearing conducted by an Impartial Hearing Officer. The administrative review will allow the applicant/client an opportunity for a face to face meeting in which a thorough discussion with the regional manager or designee can take place regarding the issue(s) of concern. All administrative reviews render a final decision expeditiously after receipt of the initial written request from the applicant/client.

2. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Individualized Plan for Employment, and upon reduction, suspension, or cessation of vocational rehabilitation services. Services will continue during the administrative review appeal process unless the services being provided under the current Individualized Plan for Employment were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

3. In order to insure that an applicant/client is afforded the option of availing themselves of the opportunity to appeal agency decisions impacting their vocational rehabilitation case, adequate notification by the counselor must include:

a. the agency's decision;

b. the basis for, and effective date of the decision;

c. the specific means for appealing the decision;

d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation;

e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and

f. the name and address of the regional manager who should be contacted in order to schedule an administrative review, mediation session, or fair hearing.

NOTE: All administrative reviews must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

B. Mediation

1. The mediation process will provide the applicant/client, (or as appropriate the applicant's/client's representative) an opportunity for dispute resolution proceedings which are fair, effective, and expeditious. This process may be used by applicants/clients for a timely resolution of disputed findings of an Administrative Review; or as a direct avenue of appeal bypassing the Administrative Review option, but must occur prior to the Fair Hearing option.

2. The mediation process will also be offered to an applicant/client as an option at the time a formal request for a fair hearing is made. However, this process may not be used as a means to delay or supplant a Fair Hearing conducted by an Impartial Hearing Officer.

3. The mediation process will be conducted by a qualified and Impartial Mediator as expeditiously as possible upon receipt of the initial written request from the applicant/client. A list of qualified Impartial Mediators will be maintained by Louisiana Rehabilitation Services.

4. The mediation process must be entered into voluntarily by all parties. Discussions that occur during the mediation session will be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. The parties involved in the mediation session will be required to sign a confidentiality pledge prior to the commencement of such process. The Impartial Mediator must ensure that if an agreement is reached by the parties in dispute, this agreement is set forth in a written mediation agreement prior to the conclusion of the session. This written agreement is the only information from the mediation session that may be presented at any subsequent due process hearing or civil proceeding.

5. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Individualized Plan for Employment, and upon reduction, suspension, or cessation of vocational rehabilitation services. Services will continue during the Mediation process unless the services being provided under the current Individualized Plan for Employment were obtained through misrepresentation, fraud, collusion, or criminal conduction on the part of the client.

6. In order to insure that an applicant/client is afforded the option of availing themselves the opportunity to appeal agency decisions impacting their vocational rehabilitation case, adequate notification by the Counselor and/or Regional Manager must include:

a. the agency's decision (inclusive of an Administrative Review, if conducted);

b. the basis for, and effective date of the decision;

c. the specific means for appealing the decision;

d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation at the Mediation session or Fair Hearing;

e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and

f. the name and address of the Regional Manager who should be contacted in order to schedule a mediation session or fair hearing.

NOTE: All mediation sessions must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

C. Fair Hearing

1. The fair hearing process may be requested by applicants/clients to appeal disputed findings of an administrative review; or as a direct avenue of appeal bypassing the administrative review or the mediation process option. The fair hearing will be conducted by an Impartial Hearing Officer after receipt of the initial written request. At the time the fair hearing is requested, the applicant/client shall be offered mediation as an option to resolve a dispute

2. An Impartial Hearing Officer shall be selected on a random basis or by agreement between the Louisiana Rehabilitation Services Director and the applicant/client. This officer shall be selected from among a pool of qualified persons identified jointly by Louisiana Rehabilitation Services and members of the Louisiana Rehabilitation Council. The Impartial Hearing Officer shall provide the decision reached in writing to the applicant/client and to Louisiana Rehabilitation Services as expeditiously as possible.

3. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Individualized Plan for Employment, and upon reduction, suspension, or cessation of vocational rehabilitation services. Services, including evaluations and assessment services and plan development (IPE), will continue during the fair hearing process unless the services being were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

4. In order to insure that the applicant/client is afforded the option of availing themselves the opportunity to pursue a fair hearing, adequate notification by the counselor and/or Regional Manager must include:

a. the agency's decision (inclusive of an administrative review and/or mediation agreement, if conducted);

b. the basis for, and effective date of, that decision;

c. the specific means for appealing the decision;

d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation at the fair hearing;

e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and

f. the means through which a fair hearing may be requested, including the name and address of the regional manager.

Note: All fair hearings must be conducted in a manner which insures that the proceedings are understood by the applicant/client.

D. Review of Fair Hearing Decisions

1. The impartial review for decisions rendered by impartial hearing officers is the final level of appeal within the Department of Social Services regarding disputes arising within Louisiana Rehabilitation Services. Subsequent to a decision being reached as a result of the impartial review by the Department of Social Services, any further pursuit of the issue by the applicant/client (or, as appropriate, the applicant/client's representative) or the Agency must be by civil action through the public court system.

2. The decision of the impartial hearing officer be final unless the applicant/client or the Agency requests a review of the Impartial Hearing Officer's decision by making a written request to the Secretary of the Department of Social Services within 20 days. The Secretary cannot delegate the responsibility for making this final decision to any officer or employee of Louisiana Rehabilitation Services. The applicant/client and the Agency shall be provided an opportunity to submit additional evidence and information relevant to the final decision.

3. The Department of Social Services' Secretary may not overturn or modify a decision of an Impartial Hearing Officer, or part of such a decision, that supports the position of the applicant/client unless the Secretary determines, based on clear and convincing evidence, that the decision of the Impartial Hearing Officer is clearly erroneous on the basis of being contrary to the State Plan, the Rehabilitation Act (including regulations implementing the Act) or any State regulation or policy that is consistent with the federal requirements specified in the Act.

4. The Secretary shall provide the decision reached in writing to the applicant/client and to Louisiana Rehabilitation Services. This decision shall include a full report of the findings and grounds for the decision.

E. Civil Action. Any party aggrieved by a final decision from an impartial review by the Department of Social Services may bring civil action for review of such decision. The action may be brought in any state court of competent jurisdiction or in district court of the United States of competent jurisdiction without regard to the amount in controversy. If a party brings a civil action, the final decision of the Department of Social Services shall be implemented pending review by the court. In any action brought under this subsection, the court shall:

1. receive the records relating to the hearing;

2. hear additional evidence at the request of a party to the action; and

3. base the decision of the court on the preponderance of the evidence, shall grant such relief as the court determines to be appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:189 (February 1995), LR 24:958 (May 1998), LR 25:1266 (July 1999), LR 26:1634 (August 2000).

**§109. Eligibility and Ineligibility**

A. Criteria for Eligibility

1. An individual is eligible for vocational rehabilitation services, if the individual:

a. has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; and

b. requires vocational rehabilitation services to prepare for, secure, retain, or regain employment; and

c. can benefit in terms of an employment outcome from vocational rehabilitation services.

B. Presumption of Benefit

1. An individual who meets the criteria in §109.A.1.a and b shall be presumed to be an individual who can benefit in terms of an employment outcome from vocational rehabilitation services, unless LRS can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

2. In making the demonstration of clear and convincing evidence, LRS shall explore the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, except under limited circumstances when an individual cannot take advantage of such experiences.

a. Such trial work experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual or to determine clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services.

b. Trial work experiences shall also include appropriate supports and training.

C. Presumption of Eligibility

1. An individual who has a disability or who is blind as determined pursuant to Title II or Title XVI of the Social Security Act (42 U.S.C. 401 et seq. And 1381 et. seq.) shall be:

a. Considered to be an individual with either a significant disability or a most significant disability, such determination to be made by LRS; and

b. Presumed to be eligible for vocational rehabilitation services, provided that the individual intends to achieve an employment outcome.

2. LRS can find an SSDI or an SSI recipient ineligible for vocational rehabilitation services if LRS can demonstrate by clear and convincing evidence through the use of trial work experiences that the severity of the individual's disability prohibits the individual from benefiting from vocational rehabilitation services in terms of an employment outcome.

D. Determinations by Officials of other Agencies

1. To the extent appropriate and consistent with the requirements of this section, LRS will use determinations made by officials of other agencies, particularly Education Officials, regarding whether an individual satisfies one or more factors relating to whether an individual is an individual who has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment.

E. Compliance Provisions

1. Nondiscrimination and Non-exclusion

a. Eligibility decisions must be made without regard to sex, race, age, creed, color or national origin of the individual applying for services.

b. No group of individuals is excluded or found ineligible solely on the basis of type of disability.

c. No upper or lower age limit is established which will, in and of itself, result in a finding of ineligibility for any individual with a disability who otherwise meets the basic eligibility requirements specified in this manual.

d. Louisiana Rehabilitation Services does not impose a residence requirement. Illegal aliens, however, cannot be served. Disabled aliens who have a legal, unexpired work visa, and who otherwise meet the eligibility criteria, can be served.

F. Determination of Ineligibility

1. A determination of ineligibility for vocational rehabilitation services is made:

a. when LRS is in possession of clear and convincing evidence that an individual has no physical and/or mental impairment which constitutes or results in a substantial impediment to employment; or

b. when LRS is in possession of clear and convincing evidence that an individual with a disability does not require vocational rehabilitation services to prepare for, secure, retain, or regain employment; or

c. when LRS is in possession of clear and convincing evidence that an individual is incapable of benefiting from vocational rehabilitation services, including available supported employment services in terms of an employment outcome.

2. If an individual who applies for vocational rehabilitation services is determined (based on the review of existing data and, to the extent necessary, the assessment of activities of a trial work period as described under the Presumption of Benefit) not eligible for services, or if an eligible individual receiving services under an Individualized Plan for Employment (IPE) is determined to be no longer eligible for services, LRS shall:

a. Provide an opportunity for full consultation with the individual or, as appropriate, the individual's representative; and

b. Inform the individual, or as appropriate, the individual's representative, in writing of:

i. The reason(s) for the ineligibility determination; and

ii. An explanation of the means by which the individual may express and seek a remedy for an dissatisfaction with the determination, including the procedures for review by an impartial hearing officer and the availability of services from the Client Assistance Program; and

iii. A referral to any other agencies or programs from whom the individual may be eligible to receive services, including other components of the statewide workforce investment system.

3. Any ineligibility determination that is based on a finding that the individual is incapable of benefiting in terms of an employment outcome shall be reviewed:

a. within 12 months; and

b. annually thereafter, if such a review is requested by the individual or the individual's representative.

G. Use of Existing Information

1. To the maximum extent appropriate and consistent with the requirement of this Section, for purposes of determining eligibility of an individual for vocational rehabilitation services, LRS shall use information that is existing and current (the current functioning of the individual), including information available from the individual, programs, and providers, particularly education officials and the Social Security Administration.

H. Time Frame for Making an Eligibility Determination

1. LRS shall determine whether an individual is eligible for vocational rehabilitation services within a reasonable period of time, not to exceed 60 days, after the individual has submitted an application for the services unless:

a. Exceptional and unforeseen circumstances beyond LRS' control preclude making an eligibility determination within 60 days and the individual agrees to an extension of time; or

b. LRS is exploring an individual's abilities, capabilities, and capacity to perform in trial work experiences.

I. Individual with a Significant Disability

1. Individuals eligible for vocational rehabilitation services are determined to be significantly disabled if the disabling condition and subsequent functional limitations fall into one of the following:

a. the individual is a recipient of Social Security Disability Insurance (SSDI); or

b. the individual is a recipient of Supplemental Security Income (SSI) by reason of blindness or disability (SSI based on age alone does not automatically render an individual significantly disabled); or

c. the individual is one:

i. who has a severe physical or mental impairment which severely limits one or more functional capacities (mobility, motor skills, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and

ii. whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time (extended period of time means six months or longer); and

iii. who has one or more physical or mental disabilities resulting from:

(a). amputation;

(b). arthritis;

(c). autism;

(d). blindness;

(e). burn injury;

(f). cancer;

(g). cerebral palsy;

(h). cystic fibrosis;

(i). deafness;

(j). head injury;

(k). heart disease;

(l). hemiplegia;

(m). hemophilia;

(n). respiratory or pulmonary dysfunction;

(o). mental retardation;

(p). mental illness;

(q). multiple sclerosis;

(r). muscular dystrophy;

(s). musculoskeletal disorders;

(t) neurological disorders (including stroke and epilepsy);

(u). paraplegia, quadriplegia, other spinal cord conditions;

(v). sickle cell anemia;

(w). specific learning disability;

(x). end-stage renal disease; or

(y). another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitations.

J. Functional Capacity Areas—Defined. Functional Capacity Areas are defined as follows: mobility, motor skill, communication, self-care, self-direction, interpersonal skills, work tolerance, and work skills.

K. Order of Selection

1. LRS follows an Order of Selection to ensure that individuals with the most significant disabilities receive priority for vocational rehabilitation services.

2. The following factors shall not be used either in determining the order of selection or in determining the placement category of eligible individuals:

a. any duration of residency requirement, provided the individual is present in the state;

b. type of disability;

c. age, gender, race, color, creed, or national origin;

d. source of referral;

e. type of expected employment outcome;

f. the need for specific services or anticipated cost of services required by an individual; or

g. the income level of an individual or an individual's family.

3. Prerequisite to Placement in the Order of Selection Assignment to a selection group is made after a determination of both of the following:

a. eligibility for Vocational Rehabilitation Services; and

b. significance of disability.

4. Selection Groups. In accordance with the criteria below, an individual is placed in one of the following:

a. Selection Group I—Most Significantly Disabled. An eligible individual is considered most significantly disabled when all of the following apply:

i. the individual meets the definition of an "individual with a significant disability" as defined in I. above.

ii. the individual's significant physical or mental impairment seriously limits four or more functional capacity areas; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time;

b. Selection Group II—The Most Significantly Disabled. An eligible individual is considered the most significantly disabled when the following apply:

i. the individual meets the definition of an "individual with a significant disability" as defined in I. above.

ii. the individual's severe physical or mental impairment seriously limits three functional capacity areas; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time.

c. Selection Group III—Significantly Disabled. An eligible individual is considered significantly disabled when the following apply:

i. the individual meets the definition of an "individual with a significant disability" as defined in I. above.

ii. the individual's severe physical or mental impairment seriously limits two functional capacity areas; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time.

d. Selection Group IV—Significantly Disabled. An eligible individual is considered significantly disabled when the following apply:

i. the individual meets the definition of an "individual with a significant disability" as defined in I. above;

ii. the individual's severe physical or mental impairment seriously limits one functional capacity area; and

iii. the individual's vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time.

e. Selection Group V—Non-Significantly Disabled. An individual is considered non-significantly disabled when:

i. the individual has a physical or mental impairment;

ii. the individual has been determined eligible for vocational rehabilitation services; and

iii. the individual does not meet the above stated criteria for an individual who is either "the most significantly disabled" or "significantly disabled."

f. Other Considerations:

i. individuals shall be placed in the highest priority category for which they are eligible;

ii. upon placement into a priority category, individuals will be notified in writing of their category assignment and of their right to appeal their category assignment.

5. Scope of Services Available. LRS's order of selection shall not limit the scope of services available for eligible individuals within the selection group(s) being served.

6. Information and Referral. LRS will, as appropriate, refer those individuals in selection groups not being served to other components of the statewide workforce investment system that are best suited to address the specific employment needs of the individual with a disability.

7. Continuity of Services. LRS shall provide for continuity of services once an otherwise eligible individual

is selected for and begins to receive services under an IPE, irrespective of the severity of the individual's disability.

8. Other Assurances

a. All individuals within a higher priority category for services shall be served before individuals in the next lowest priority category.

b. When it is impossible to serve all eligible individuals within a priority category, the individuals (in addition to referral to other components of the statewide workforce investment system) will be placed on a deferred services waiting list. Individuals on the deferred services waiting list will be served in chronological order based on the date of application.

c. If the order of selection is rescinded, individuals on deferred services waiting lists and in unserved categories will be contacted and served in chronological order based on the date of application.

9. Client Participation in the Cost of Services. All LRS policy relative to client participation in the cost of services shall apply to individuals receiving services under the order of selection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 19:891 (September 1991), amended LR 20:317 (March 1994), LR 21:191 (February 1995), LR 22:993 (October 1996), LR 23:994 (August 1997), LR 25:1267 (July 1999), LR 27:211 (February 2001).

**§110. Information and Referral Services**

A. Purpose. The purpose of an expanded system of information and referral is as follows:

1. To ensure that individuals with disabilities who are not being served under LRS' Order of Selection receive accurate vocational rehabilitation information and guidance to assist such individuals in preparing for, securing, retaining, or regaining employment; and

2. To ensure that such individuals, as appropriate, are referred to other federal and state programs, including other components of the statewide workforce investment system.

B. Services

1. Information

a. As appropriate, to the extent that such services are not purchased by LRS, LRS will provide the following informational vocational rehabilitation services:

i. individualized guidance and counseling;

ii. individualized vocational exploration;

iii. supervised job placement referrals to work force Investment;

iv. assistance in securing reasonable accommodations.

2. Referral

a. As appropriate, LRS will make a referral to the appropriate Federal or State program, including other components of the statewide workforce investment system, that is best suited to address the specific employment needs of the individual with a disability.

b. Information provided by LRS to the individual will contain:

i. a copy of the notice of the referral by LRS to the other agency carrying out the program; and

ii. information identifying a specific point of contact within the agency carrying out the program; and

iii. information and advice regarding the most suitable services to assist the individual to prepare for, secure, retain, or regain employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:1270 (July 1999).

**§111. Comprehensive Assessment**

A. Purpose

1. To make a determination of the employment-related needs of the individual with a disability.

2. To make a determination of the objectives, nature, and scope of vocational rehabilitation services required for development of the Individualized Plan for Employment (IPE) of an eligible individual.

B. Scope

1. To the extent additional data is necessary, LRS shall conduct a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, of the eligible individual, including the need for supported employment.

2. The comprehensive assessment includes, to the degree needed, an assessment of the following:

a. personality;

b. interests;

c. interpersonal skills;

d. intelligence and related functional capacities;

e. educational achievements;

f. work experience;

g. vocational aptitudes;

h. personal and social adjustment;

i. employment opportunities;

j. medical, psychiatric, and/or psychological factors;

k. other pertinent vocational and educational factors;

l. appraisal of patterns of work behavior;

m. services needed to acquire occupational skills, develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the use of work in real job situations

to assess and develop the capacities of the individual to perform adequately in a work environment.

C. Additional Considerations

1. The comprehensive assessment is limited to information necessary to identify the rehabilitation needs of the eligible individual and to develop the Individualized Plan for Employment (IPE).

2. LRS will use as a primary source of information, to the maximum extent possible and appropriate, existing information obtained for the purpose of determining eligibility.

3. LRS will use, to the maximum extent possible and appropriate, information provided by the individual and/or the individual's family.

D. Trial Work Periods

1. As appropriate, LRS will use trial work periods to explore an individual's abilities, capabilities, and capacity to perform in work situations.

2. An assessment will be conducted as often as necessary and at least every 90 days.

3. As appropriate, LRS will provide a referral for the provision of rehabilitation technology services to assess and to develop the capacities of the individual to perform in a work environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 24:1271 (July 1999).

**§113. Individualized Plan for Employment (IPE)**

A. Purpose of the Individualized Plan for Employment (IPE). The Individualized Plan for Employment, hereafter referred to as IPE, and all subsequent amendments assure that each individual determined eligible for vocational rehabilitation services or determined appropriate for extended evaluation services shall have a formal plan, for services.

B. Client Choice and Client Participation

1. The format of the IPE, to the maximum extent possible, will be in the language or mode of communication understood by the individual. Each individual's IPE will assure that the plan was developed in a manner empowering the individual with the ability to make an informed choice relative to the selection of an employment goal, intermediate objectives, services and service providers.

2. The client (or where appropriate, the client's parent, guardian or other representative) must sign the IPE and must receive a copy of the original IPE and all subsequent amendments.

C. Options for Developing an IPE

1. After completion of the assessment for determining eligibility and vocational rehabilitation needs (comprehensive assessment), LRS shall provide the eligible individual, or the individual's representative, in writing, and in an appropriate mode of communication, with information on the individual's options for developing an IPE including the following:

a. Information on the availability of technical assistance, to the extent determined to be appropriate by the eligible individual, from a qualified vocational rehabilitation counselor in developing all or part of the IPE;

b. A description of the full range of components that shall be included in an IPE;

c. As appropriate, an explanation of agency guidelines and criteria associated with financial commitments concerning an IPE;

d. As appropriate, additional information the eligible individual requests or LRS determines necessary; and

e. As appropriate, information on the availability of assistance in completing designated LRS forms required in developing an IPE.

D. Mandatory Components of an IPE

1. Regardless of the approach selected by an eligible individual to develop an IPE, an IPE shall, at a minimum, contain components consisting of the following:

a. the specific employment goal chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual resulting unemployment, and to the maximum extent appropriate, in an integrated setting;

b. the specific vocational rehabilitation services (provided in the most integrated setting appropriate for the service and consistent with the individual's informed choice) needed to achieve the employment goal, including as appropriate, the provision of assistive technology devices and assistive technology services, and personal assistance services, including training and management of such services;

c. the approximate dates for the initiation of each service and the anticipated date for the completion of each service;

d. a time frame for the achievement of the employment goal;

e. the entity chosen to provide the vocational rehabilitation service and the methods to procure such services;

f. the criteria to evaluate the individual's progress towards achievement of the employment goal.

g. the terms and conditions of the IPE, including, as appropriate, information describing:

i. responsibilities of LRS;

ii. responsibilities of the eligible individual including those responsibilities the individual will assume in relation to the employment goal;

iii. if applicable, the participation of the eligible individual in paying for the costs of the planned services;

iv. responsibility of the eligible individual with regard to applying for and securing comparable benefits;

v. if applicable, the responsibilities of any other entities as the result of arrangements made pursuant to comparable services and benefits.

h. For an eligible individual with the most significant disabilities for whom an employment goal is in a supported employment setting, information identifying:

i. the extended services needed;

ii. the source of extended services, or to the extent that the source of extended services cannot be identified at the time of development of the IPE, a description of the basis for concluding that there is reasonable expectation that such source will become available.

i. a statement of the projected need for post-employment services.

j. The rights and remedies available to the individual through the Appeal Process and information regarding the availability of the Client Assistance Program.

E. Review and Amendment

1. The IPE shall be reviewed as least annually by a qualified vocational rehabilitation counselor and the eligible individual, or as appropriate, the individual's representative; and

2. Amended, as necessary, by the individual, or as appropriate, the individual's representative, in collaboration with a qualified vocational rehabilitation counselor, (if there are substantive changes in the employment goal; the vocational rehabilitation services to be provided; or the service providers of the services (which amendments shall not take effect until agreed to and signed by the eligible individual, or as appropriate, the individual's representative, and a qualified vocational rehabilitation counselor employment by LRS).

F. IPE Document

1. An IPE for employment shall be a written document prepared on forms provided by LRS.

2. An IPE shall be developed and implemented in a manner that afford eligible individuals the opportunity to exercise informed choice in selecting an employment outcome, the specific vocational rehabilitation services to be provided under the IPE, the entity that will provide the vocational rehabilitation services, and the methods used to procure the services consistent with Informed Choice as defined in LRS in Chapter 1 of this policy manual.

3. An IPE shall be agreed to, and signed by, such individual or, as appropriate, the individual's representative; and approved and signed by a qualified vocational rehabilitation counselor employed by LRS.

4. A copy of the IPE shall be provided to the individual or, as appropriate, the individual's representative, in writing; and if appropriate, in the native language or mode of communication of the individual.

G. Content of the IPE for Case Closure as "Ineligible"

1. The IPE and amendments relating to case closure based on the decision that the individual is no longer capable of achieving an employment goal, must document with clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services, to include available supported employment services. Such decisions shall be reviewed and reassessed twelve months from the date of closure.

2. IPE closure documents shall set forth the rights and remedies available to the individual through the Appeal Process and provide information regarding the availability of the Client Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 25:1271 (July 1999).

**§115. Financial**

A. Comparable Services and Similar Benefits

1. Determination of Availability

a. Prior to providing any vocational rehabilitation service to an eligible individual, except those services specified below in c.i.(a)-(f), LRS will determine whether comparable services and benefits are available under any other program (other than a program carried out under Title IV, Rehabilitation Act Amendments of 1998) unless such a determination would interrupt or delay:

i. the progress of the individual toward achieving the employment outcome identified in the IPE of the individual;

ii. an immediate job placement; or

iii. the provision of such service to any individual at extreme medical risk.

b. Awards and Scholarships. For purposes of the determination of availability in A.1 above, comparable benefits do not include awards and scholarships based on merit.

c. Exceptions to Use of Comparable Services and Benefits. The following vocational rehabilitation services can be provided without making a determination of the availability of comparable services and benefits:

i. services provided through LRS's Information and Referral System;

ii. assessment for determining eligibility and vocational rehabilitation needs, including if appropriate, assessment by personnel skilled in rehabilitation technology;

iii. counseling and guidance, including information and support services to assist an individual in exercising informed choice;

iv. referral and other services needed to secure necessary services from other agencies through cooperative agreements, if such services are not available from LRS;

v. job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

vi. rehabilitation technology, including telecommunications, sensory, and other technological aids and devices.

B. Individual's Participation in the Cost of Vocational Rehabilitation Services

1. Neither a financial needs test nor a budgetary analysis of assets, income, and disability-related expenses shall be applied as a condition for furnishing any vocational rehabilitation service if the individual in need of the service has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act.

2. LRS will consider, through budgetary analysis of assets, income, disability-related expenses and comparable services and benefits, the financial need of eligible individuals and individuals who are under extended evaluations for purposes of determining the extent of the individual's participation in the costs of certain vocational rehabilitation services.

a. Neither a financial needs test, nor a budgetary analysis, is applied and no financial participation is required as a condition for furnishing the following vocational rehabilitation services:

i. assessment for determining eligibility and priority for services, except those non-assessment services that are provided during an extended evaluation to explore the individual's abilities, capabilities, and capacity to perform in work situations (trial work periods);

ii. assessment for determining vocational rehabilitation needs;

iii. counseling, guidance, including information and support services to assist an individual in exercising informed choice;

iv. referral and other services to secure needed services from other agencies through cooperative agreements, if such services are not available from LRS;

v. job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

vi. rehabilitation technology assessments;

vii. supported employment, on-site training, and on-the-job training;

viii. personal assistance services directly related to a direct job placement outcome and provided simultaneously with any of the above-listed vocational rehabilitation services. (Examples include attendant, reader, scribe, interpreter, braille, notetaker, and adjustment/orientation and mobility training services.)

ix. assistive technology devices and services.

b. A financial needs test will be applied through budgetary analysis to determine the ability of the individual to financially contribute to the cost of the following vocational rehabilitation services:

i. physical restoration and/or mental restoration;

ii. maintenance;

iii. transportation;

iv. books and supplies;

v. occupational tools and equipment;

vi. cost services to other family members;

vii. occupational licenses;

viii. discretionary training fees such as car registration fees, student health service fees, etc. not included in tuition;

ix. adjustment/orientation and mobility, attendant, reader, scribe, and interpreter services not directly related to a direct job placement outcome;

x. vocational and other training services, such as college/university, vocational and proprietary school training, not related to an immediate direct job placement outcome;

xi. other goods and services;

xii. post-employment services consisting of the services listed above.

c. The only exception to items ix and x above is as follows:

i. to preserve LRS's Continuity of Services provision in the Order of Selection, LRS exempted those eligible individuals who had an IWRP/IPE in effect prior to July 20, 1999, which is the date of the adoption of this rule change; therefore, items ix and x in b above will only apply to those individuals who had an IWRP/IPE developed after July 20, 1999.

d. The following services are exempt from the application of a budget surplus, if the counselor determines that a surplus exists:

i. adjustment/orientation and mobility services;

ii. attendant services;

iii. reader services;

iv. scribe, notetaker/braille services;

v. interpreter services

vi. assistive technology services.

e. When it is determined by a counselor and an eligible client that self-employment, through establishment of a small business enterprise, is the best option for the client, the client must provide a minimum cash capital contribution of 20 percent of the total transaction. (Refer to LRS Policy on Small Business Enterprise.)

f. An individual's status for the budget analysis will be determined as follows:

i. the agency will perform the budget analysis on the basis of the resources of both the client and the spouse if the client is married;

ii. the agency will perform the budget analysis on the basis of the resources of the family unit for all single clients living in the family home as a family member. Temporary absences from the home, such as for vacations, school, or illness, count as time lived in the home;

iii. the agency will perform the budget analysis on an individual who has returned to the family unit on the basis of the resources of only that individual if the following conditions are met:

(a). the individual's disability has precluded their obtaining or maintaining employment; and

(b). the individual has a documented history of self-sufficiency that includes providing over one-half the costs of maintaining a residence for at least one year prior to their return to the family unit; and

(c). the individual's parent(s), legal guardian, or other head of household provides documentation that indicates such person(s) do not claim the individual as an exemption for federal and/or state income tax purposes.

(d). the agency will perform a budget analysis on the basis of the resources of a single consumer living away from the family home if the individual meets the following conditions:

(i). the individual can document history of self-sufficiency that included providing over one-half the costs of maintaining a residence. Documentation must include, but is not limited to, the following: copy of the lease which is in consumer's name; utility bills in consumer's name; and income verification sufficient to cover living expenses; and

(ii). the consumer files his/her own state and federal income tax forms and is not claimed as an exemption on another individual's state/federal income tax return;

(iii). at annual review, the Counselor must verify that consumer still meets the criteria established for individual status.

(e). Family unit is defined as the client and the client's parents or the client and any significant other(s), such as aunts, uncles, friends, legal guardians, etc., who are living in the household and are providing support for the maintenance of the household in which the client lives. Adult siblings of the client can be excluded as a member of the family unit for income reporting; but, must also be excluded from the family unit in the determination of allowable monthly liabilities.

g. Individuals who do not provide LRS with necessary financial information to perform the budget analysis will be eligible only for those vocational rehabilitation services that are not conditioned upon an analysis to determine the extent of the individual's participation in the costs of such services.

h. Individuals who have defaulted on a student loan must make good faith efforts with the lender to clear the default or to defer payment before LRS will participate in the cost of the client's vocational rehabilitation program.

i. Simultaneously with the comprehensive assessment, at the annual review of the IPE, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis for each client requiring vocational rehabilitation services as listed above in §115 B.2b.i.-xii. The amount of client participation in the cost of their vocational rehabilitation program will be based upon the most recent budget analysis at the time the relevant IPE or amendment is developed.

3. State and Departmental Purchasing Procedures. All applicable state, departmental and agency purchasing policies and procedures must be followed.

a. LRS does not purchase vehicles or real estate.

b. Fee Schedule. Services and rates of payment must be authorized in accordance with LRS's Medical Fee Schedule and LRS's Technical Assistance and Guidance Manual, Section 500 which lists approved service providers.

c. Approval of Service Providers

i. Any service provider approved by the agency must agree not to make any additional charge to or accept any additional payment from the client or client's family for services authorized by the agency.

ii. Relatives of vocational rehabilitation clients will not be approved as a paid service provider unless such individuals are professionally and occupationally engaged in the delivery of such services by offering their services to the general public on a regular and consistent basis.

d. Prior Written Authorization and Encumbrance

i. Either before or at the same time as the initiation or delivery of goods or services, the agency must be in possession of the proper authorizing document. The only exception is in an emergency situation.

ii. If oral authorization of approved services is made in an emergency situation, there must be prompt documentation, and the authorization must be confirmed in writing and forwarded to the provider of the services.

C. LRS shall use the following methodology to determine an individual's financial need for certain vocational rehabilitation services.

**RS-14**

**LOUISIANA REHABILITATION SERVICES**
**Financial Need Analysis**

**Consumer's Name**:_____ **Social Security Number**:_____

Is the consumer currently receiving any of the following types of assistance?

| | Yes* | No | | Yes* | No |
|---|---|---|---|---|---|
| TANF (formerly AFDC) | _____ | _____ | SSI | _____ | _____ |
| Food Stamps | _____ | _____ | SSDI | _____ | _____ |

If you answered **YES** to any of the above, the consumer is not expected to contribute to the cost of services on the Individualized Plan for Employment (IPE) other than the use of any available comparable services and benefits. Complete comparable services and benefits and have consumer/representative sign the form on page 3.

COMPARABLE SERVICES AND BENEFITS

1. Pell Grant $_____
2. SEOG $_____
3. VA Scholarship $_____
4. JTPA $_____
5. Scholarships, (i.e. TOPS, etc.) $_____
6. Stipends, Fellowships, etc. $_____
7. Other (List):
   a. _____$_____
   b. _____$_____
   c. _____$_____

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**INCOME DETERMINATION**

1. Total Yearly Gross Income $ _____

   *Verification Source:

   _____Federal tax return--1040, 1040A, 1040EZ (most current)
   _____Pay stub showing gross income per _____(month, week, etc.)
   _____Employer's Statement
   _____Other (specify)_____

2. Determine the Basic Living Requirement (**BLR**)

   a. Check family size in appropriate box.

| **Persons** | **1** | **2** | **3** | **4** | **5** | **6** | **7** | **8** | **Other**** |
|---|---|---|---|---|---|---|---|---|---|
| **Check Family Size** | | | | | | | | | |
| **Allowable BLR**** | $21,475 | $29,025 | $36,575 | $44,125 | $51,675 | $59,225 | $66,775 | $74,325 | |

**For each additional person over 8, add $3020.

   b. Does income exceed the allowable Basic Living Requirement (BLR)? Yes_____ No____

   If you answered **NO** to 2.b., **STOP**. The consumer is not expected to contribute to the cost of services on the Individualized Plan for Employment (IPE).

   If you answered **YES** to 2.b., **CONTINUE**.

* **Verification must be filed in the consumer's case record.**

3. Disability Related Expenses. List the YEARLY costs for necessary disability-related expenses for family members if such disability-related expenses are not covered by any other benefit or resource. (Do not include the costs of any disability related expenses that will be purchased or provided by LRS or any comparable service or benefit.)

   Personal Care Attendant Services $_____
   Medications, medical supplies, prescriptions, non-prescription items, and special diet/food related to the disability. $_____

| | |
|---|---|
| Medical/health insurance premiums, if not already deducted from gross wages | $_____ |
| Disability related clothing needs, devices, and adaptive equipment, including maintenance of such devices and equipment | $_____ |
| Other (List): | |
| _____ | $_____ |
| _____ | $_____ |
| TOTAL ANNUAL DISABILITY RELATED EXPENSES* | $_____ |

4. Assets

a. Liquid Assets - List the total value of any of the following assets owned by either the consumer, consumer's spouse, or consumer's family, as applicable:

| | |
|---|---|
| Savings | $_____ |
| Stocks/bonds | $_____ |
| Certificates of Deposit | $_____ |
| Other Liquid Assets | $_____ |

b. Other Assets - List the total equity in any of the following other fixed or personal assets owned by the consumer, the consumer's spouse, or consumer's family, as applicable. **DO NOT INCLUDE THE VALUE OF EQUITY IN THE PRIMARY RESIDENCE OR AUTOMOBILES.**

| | |
|---|---|
| Land or buildings | $_____ |
| Second/vacation homes | $_____ |
| Rental property | $_____ |
| Other Assets | $_____ |

c. TOTAL ASSETS (Add 4. a. & b. $_____

***Verification must be in the consumer's case record.**

**NEED DETERMINATION**

| | | |
|---|---|---|
| Enter total yearly gross income from No. 1 on page 1 | 1. | $_____ |
| Enter Total Disability Related Expenses from No. 3 on Page 2. | 2. | $_____ |
| Subtract Line 2 from Line 1 for **Net Income** | 3. | $_____ |
| Enter **Total Assets** from No. 4.c. on page 2. | 4. | $_____ |
| Add lines 3 and 4 above for **total available resources**. | 5. | $_____ |
| Enter amount of Basic Living Requirement (BLR) from chart on page 1. | 6. | $_____ |

Check applicable line:

_____The amount ($) on Line 5 is **equal to or less than the amount ($) on line 6**.
The consumer **MEETS** Louisiana Rehabilitation Services financial need criteria.

_____The amount ($) on Line 5 is **greater than the amount ($) on line 6**.
The consumer **DOES NOT MEET** Louisiana Rehabilitation Services financial need criteria.

I certify the information is correct and complete to the best of my knowledge. I understand that formal planning for services will be on my IPE and will document the application of comparable services and similar benefits to the cost of planned services.

_____ _____
Consumer's Signature Date

_____ _____
Counselor's Signature Date

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 25:1273 (July 1999), LR 27:212 (February 2001), LR 27:1561 (September 2001).

**§117. Vocational Rehabilitation Services**

A. Vocational Rehabilitation Services are any services described in an IPE necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment goal that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including:

1. an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

2. counseling and guidance, including information and support services to assist an individual in exercising informed choice;

3. referral and other services to secure needed services from other agencies through cooperative agreements developed, if such services are not available from LRS;

4. job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

5. vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this Title unless maximum efforts have been made by LRS and the individual to secure grant assistance in whole or in part, from other sources to pay for such training;

6. to the extent that financial support is not readily available from a source other than LRS (such as through health insurance of the individual or a comparable service and benefit consistent with LRS policy, Chapter 115 Financial, Comparable Services and Similar Benefits) diagnosis and treatment of physical and mental impairments, including:

a. corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;

b. necessary hospitalization in connection with surgery or treatment;

c. prosthetic and orthotic devices;

d. eyeglasses and visual services as prescribed by qualified personnel who meet State license laws;

e. special services, artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and

f. diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State license laws;

7. maintenance for additional costs incurred while participating in and assessment for determining eligibility and vocational rehabilitation needs or while receiving other services under an IPE and needed by the individual to achieve an employment goal;

8. transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service under an IPE and needed by the individual to achieve an employment goal;

9. on-the-job or other related personal assistance services provided while an individual is receiving other services under an IPE and needed by the individual to achieve an employment goal;

10. interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State license law;

11. rehabilitation teaching services, and orientation and mobility services for individuals who are blind;

12. occupational licenses, tools, equipment, and initial stocks and supplies;

13. technical assistance and other consultation services to conduct market analyses, develop plans and otherwise provide resources to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment goal;

14. rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;

15. transition services for students with disabilities that facilitate the achievement of the employment outcome identified in the IPE;

16. supported employment services;

17. services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome identified in the IPE;

18. specific post-employment services necessary to assist an individual with a disability to retain, regain, or advance in employment.

B. Scope of Services for Diagnosis and Treatment of Physical and Mental Impairments

1. LRS will not provide ongoing medical rehabilitation treatment services. After medical science has restored the individual to their maximum level of healthy

functioning, LRS can provide vocational rehabilitation services to remediate residual deficits medical science could not restore, if such impairments impact the individual's ability to work. LRS can provide all necessary and appropriate vocational rehabilitation services if these services address these functional deficits and assist the individual in performing job functions and/or gaining knowledge or skills necessary to compete for and obtain employment.

2. LRS will not provide experimental services or supplies.

C. Scope of Services in Community Rehabilitation Programs (CRP)

1. Cost Effectiveness

a. In consideration of the cost-effective provision of services in Community Rehabilitation Programs, LRS shall first use publicly-supported Community Rehabilitation Programs to provide assessment services, both for diagnostic purposes and in the provision of trial work periods, before using either private or private-non profit Community Rehabilitation Programs.

b. The only exceptions shall be as follows:

i. the service in a publicly supported CRP is not available.

ii. provision of the service in a publicly supported CRP would create an extreme hardship for the client.

D. Scope of Establishment of Small Business Enterprise

1. The purpose of a self-employment goal for a client is to establish an individual with a disability in a small business enterprise that will provide sufficient income to support the individual and their family, thereby enabling the individual to meet ordinary daily living expenses and business costs. LRS desires to make self-employment an available option only when it is clearly demonstrated that self-employment is the best choice for the client.

2. When it is determined by a counselor and an eligible client that self-employment, through establishment of a small business enterprise, is the best option for the client, the following apply:

a. the client must present evidence of a record of success in the industry pertinent to the products and/or services the client plans to offer in this particular self-employment venture;

b. the client must attend at least one workshop on small business development designed to develop and raise the management skills of small business owners. Acceptable workshops include those operated by the small business development centers (SBDC), chambers of commerce (SCORE), Louisiana Department of Economic Development, and colleges and universities;

c. the client must develop a business plan;

d. the business plan must:

i. be thorough, realistic, and in writing;

ii. include, but is not limited to:

(a). estimates of revenues and expenses;

(b). estimates of profit;

(c). a market analysis;

(d). client as the owner/proprietor of the business actually working in/managing the business;

(e). evidence to indicate the business venture has the potential to generate sufficient profits to provide client with gainful income to support client/family's daily living expenses and business costs;

e. available Social Security work incentives, such as PASS and IRWE, must be investigated, applied for, and used for clients who are recipients of Social Security Benefits (SSI and SSDI);

f. the client must:

i. submit the business plan to a small business development center for evaluation of the viability of the business venture in terms of competitive profitability;

ii. share with LRS the small business development center's evaluation of and comments regarding the business plan;

iii. if suggested by the small business development center, make modifications to the business plan, with the recommendations made by the small business development center; and

iv. resubmit such plan for re-review by the small business development center;

g. LRS has defined the scope of the establishment of a small business enterprise as reasonable start-up costs not to exceed an aggregate assistance of $20,000. The cost of any training/workshops relative to establishing the client in a small business and/or disability-related assistive technology devices is not included in the $20,000 limit;

h. commitment by the client to make a minimum cash capital contribution of 20 percent of the total transaction. Such funds can be from the client's personal resources, loans, etc.

i. LRS will not assist a client in the establishment of multiple (more than one) small businesses. Once the initial business is set up, LRS will not provide funds for expansion or improvements to the business. If changes in the nature of the client's disability require disability-related modifications and/or assistive technology to enable the client to continue in this employment capacity, the individual must:

i. be an eligible client or eligible for post-employment services;

ii. complete an updated business plan;

iii. meet all other applicable policy/procedure regulations;

j. LRS will not provide funding for:

i. businesses that are speculative in nature, such as investments in real estate, etc.;

ii. businesses organized as nonprofit;

iii. businesses organized as hobbies;

iv. construction and/or purchase of real estate;

v. purchase of land;

vi. refinancing of existing debt;

vii. purchase of vehicles;

k. all other applicable state, federal, and agency laws, policy and procedure must be followed, including state purchasing laws;

l. these policy provisions do not apply to the Randolph Sheppard Program;

m. ultimate approval of funding a small business enterprise for an eligible vocational rehabilitation client lies with Louisiana Rehabilitation Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 24:959 (May 1998), LR 25:1274 (July 1999).

**§119. Transition Process for Individuals in Secondary Education Programs**

A. Louisiana Rehabilitation Services (LRS) will provide vocational rehabilitation transition services to eligible individuals in their exit year from the state secondary education system. Although the education system will be involved in education-related transition services prior to the exit year, LRS' first consultation with school personnel, students with disabilities, and family members of students with disabilities will be in the year prior to the exit year. This consultation in the year prior to the exit year will enable school personnel and LRS to identify those students who might be eligible for and interested in vocational rehabilitation services.

B. LRS' transition process is a coordinated set of vocational rehabilitation services planned for an eligible student with an official secondary education transition plan. Such vocational rehabilitation transition services are designed within an outcome-oriented process that promotes movement from school to post school activities, including post secondary education, vocational training and/or integrated employment (including supported employment).

C. LRS' vocational rehabilitation transition services shall be based upon the eligible student's individual needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, and the achievement of an employment outcome.

D. The coordination and collaboration between LRS and the state education system will assure continuity of services for eligible students.

E. The following provisions are the key points in LRS' transition process:

1. LRS will provide consultation (to the extent possible considering time and resources) the year prior to the individual's exit year with regard to students who have official transition plans within the state education system.

2. LRS will provide vocational rehabilitation transition services during the eligible individual's exit year to students who have official transition plans within the state education system. The provision of these vocational rehabilitation transition services will be assured through the completion of an eligible individual's IPE BEFORE the individual leaves the school system.

F. The LRS director or designee shall have the sole responsibility for any exceptions to this policy on transition services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 25:1276 (July 1999).

**§121. Conditions for Case Closure**

A. Options for Closure. An individual's case can be closed at any time in the vocational rehabilitation process when it has been determined that:

1. the individual is not available for services;

2. the individual is ineligible;

3. appropriate planned services, expenditures and reports have been completed, and additional services are either unnecessary or inappropriate, except as may be provided under post-employment services.

B. Closure as Successfully Rehabilitated. An individual is determined to have achieved an employment outcome if the following requirements are met:

1. the provision of services under the individual's IPE has contributed to the achievement of the employment outcome;

2. the employment outcome is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice;

3. the employment outcome is in the most integrated setting possible, consistent with the individual's informed choice;

4. the individual has maintained the employment outcome for a period of at least 90 days;

5. the individual and the rehabilitation counselor consider the employment outcome to be satisfactory and agree that the individual is performing well on the job.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 23:994 (August 1997), repromulgated LR 25:1277 (July 1999).

# Chapter 2.Community Rehabilitation Program

### §201. Purpose

A. Principle. The Community Rehabilitation Program (CRP) shall establish its purpose and direct its activities toward accomplishment of that purpose.

B. The CRP shall state its goals and purposes clearly in appropriate publications for distribution to staff, those served, referral and payment sources, and the public.

C. The CRP shall describe the specific rehabilitation needs it is prepared to address as well as the programs and services available for that purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1954 (October 1998).

### §203. Organization and Management

A. Licenses. All public and private community rehabilitation programs shall be licensed by the Department of Social Services, Bureau of Licensing or the Department of Health and Hospitals, if applicable, based on the standards developed and published according to state law.

B. General Requirements

1. The CRP shall allow representatives of Louisiana Rehabilitation Services (LRS) and the appropriate program office in the performance of their mandated duties to monitor all aspects of a program's functioning which impact on clients and to interview staff members and clients.

2. The CRP shall make any information which the program is required to have under the present requirements and any information reasonably related to assessment of compliance with these requirements available to LRS and the appropriate program office.

a. The client's rights shall not be considered abridged by this requirement.

b. A CRP shall promptly provide all necessary and needed information for review.

c. A CRP shall provide adequate space and privacy for the surveyor to review records uninterrupted.

C. A CRP shall have an administrative file including:

1. documents identifying the governing body and/or ownership of the agency;

2. list of members and officers of the governing body and their addresses and terms of membership, if applicable;

3. bylaws of the governing body and minutes of formal meetings, if applicable;

4. a written statement of the program's mission and philosophy;

5. documentation of the agency's incorporation in the state;

6. organizational chart of the agency;

7. all leases, contracts and purchase-of-service agreements to which the center is a party;

8. insurance policies;

9. annual budgets;

10. master list of all consultants used by the center.

D. Organization and Administration. The CRP should engage in short-range and long-range planning, and develop or modify its services according to identified community needs and other LRS identified needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1954 (October 1998).

### §205. Governing Body

A. The membership of the governing body shall be representative of the community being served, and include person(s) with disabilities and/or families of person(s) with disabilities; or

B. A CRP has for-profit status, it shall have an advisory board which meets regularly and is representative of the community being served and include person(s) with disabilities and/or families of person(s) with disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

### §207. Fiscal Accounting Systems and Record Keeping

A. The CRP must maintain adequate fiscal records and accountability so as to demonstrate, upon request, receipt and utilization of funds from LRS. Each CRP must have an annual external audit and management letter and include a single audit where indicated or required by law.

B. The CRP must have adequate insurance to protect persons served.

C. A CRP shall not permit funds to be paid, or committed to be paid, to any corporate person to which any of the members of the governing body, administrative personnel or members of the immediate families or members of the governing body or administrative personnel have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the CRP. The CRP shall have a

written disclosure of any financial transaction with the agency in which a member of the governing body, administrative personnel or his/her immediate family is involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

### §209. Personnel Administration and Staff Development

A. Providers of vocational rehabilitation services shall use qualified personnel, in accordance with any applicable national or state-approved or recognized certification, licensing, or registration requirements, or in the absence of these requirements, other comparable requirements (including state personnel requirements), that apply to the profession or discipline in which that category of personnel is providing vocational rehabilitation services.

B. The CRP should encourage and support staff growth and development by providing opportunities for training, education and interaction with other persons in the rehabilitation field.

C. Providers of vocational rehabilitation services should take affirmative action to employ and advance in employment qualified individuals with disabilities.

D. The CRP will include among their personnel or make available personnel able to communicate in the native languages of individuals who have limited English proficiency if those native languages are spoken by substantial segments of the population of the state; and provide special modes of communication for individuals who rely on these special modes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

### §211. Physical Plan and Accessibility

The CRP must comply with accessibility requirements as established in Section 504 of the Rehabilitation Act of 1973, as amended, and by the Uniform Federal Accessibility Standards and the Americans with Disabilities Act of 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

### §213. Confidentiality and Case Records

A. General

1. All client information is confidential. All personal information in the possession of the CRP shall be used only for purposes directly connected with the administration of the program.

2. A CRP shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records and to whom records may be released. Records shall be the property of the center and the center, as custodian, shall secure records against loss, tampering or unauthorized use.

B. Notification to Clients. Individuals asked to supply the CRP with information concerning themselves shall be informed of the CRP's need to collect confidential information and the policies governing its use, release, and access including:

1. a Consent to Release Case Record Information form contained in case files which must document that individuals have been advised of the confidentiality of information pertinent to their case;

2. the principal purpose for which the CRP intends to use or release the requested data;

3. whether the individuals may refuse, or are legally required to supply the requested data;

4. any known consequence arising from not providing the requested information;

5. the identity of other agencies to which information is routinely released.

C. Release of Confidential Information. The case file must contain documentation concerning any information released with the individual's written consent.

D. No use shall be made of the name or picture of an individual served without the prior written consent of the individual, or his or her legal guardian.

E. Client Access to Data. When requested in writing by the involved individual or an authorized representative, clients or applicants have the right to see and obtain in a timely manner copies of any information that the CRP maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the individual's physical or mental health;

2. medical, psychological, or other information which the CRP determines harmful to the individual;

NOTE: Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the individual's representative, or a physician or a licensed or certified psychologist;

3. personal information that has been obtained from another agency or organization. Such information may be released only by or under the conditions established by the other agency or organization.

F. Informed Consent. Informed consent means that the individual has signed an authorization to release information and such authorization is as follows:

1. in a language that the individual understands;

2. dated;

3. specific as to the nature of the information which may be released;

4. specifically designates the parties to whom the information may be released;

5. specific as to the purpose(s) for which the released information may be used;

6. specific as to the expiration date of the informed consent which must not exceed one year.

G. Release of Client Information Without Informed Consent

1. The CRP must have written authorization to release confidential client information except in the following instance:

a. the CRP can release personal information without informed written authorization to protect the client or others when the client poses a threat to his/her safety or to the safety of others;

b. the CRP can only release that information necessary to protect the client or others.

c. the CRP or employee providing the information must carefully record all the facts and circumstances in the client's case record.

2. Examples of Emergency Situations. Emergency situations that might require release of personal information without informed written authorization could possibly include the following:

a. threats of murder and/or suicide;

b. threats to the safety of the workplace;

c. national security violations.

H. Confidentiality—HIV Diagnosis. Each time confidential information is released on applicants or clients who have been diagnosed as HIV positive, a specific informed written consent form must be obtained.

I. Location of Records

1. The CRP shall keep on site the following records:

a. all IPE's and Agency Service Plans;

b. all client plan updates and progress notes;

c. all client evaluations;

d. a copy of the CRP's policy and procedure manual(s);

e. a copy of the employee's criminal history check.

2. All other records shall be kept in the main office of the CRP, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

**§215. Available Programs and Program Outcomes**

A. Intake and Orientation. The CRP should make a reasonable effort to obtain necessary case file information before planning services for an individual, and make appropriate use of such information throughout the individual's program.

B. Assessment and Program Planning

1. The CRP should review referral information and, using appropriate appraisal and evaluation procedures, determine the individual's need for services.

2. The CRP's policies shall specify that the individual's plan for rehabilitation services will be established with his or her involvement and that it will focus on the individual's achievement of independent functioning in the community and/or achievement or maintenance of the individual's appropriate level of employment outcome or independent functioning.

C. Program Management, Treatment, and Training

1. The CRP shall develop a procedure to insure that services provided each individual are organized, coordinated and reviewed regularly by a program manager or service coordinator.

2. The individual's progress toward the planned goals shall be measured and recorded monthly and communicated to the individual, the referral source, LRS and any other authorized parties.

3. Individually scheduled conferences shall take place on a timely basis to review the progress of the individual served and to develop further plans, if necessary. The results shall be recorded in the case record and communicated to LRS and any other appropriate parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1956 (October 1998).

**§217. Public Relations and Marketing**

A. Principle. The CRP shall be actively involved in its community to create acceptance, understanding and support for its goals and services.

B. The CRP should thoroughly investigate the employment and related needs of its current and future users, and organize its services to meet those needs.

C. The CRP should conduct its activities in a manner that encourages understanding, cooperation and support from the public, from other agencies and from other groups in the community.

D. The CRP should function in the community as an advocate for those it serves by promoting positive attitudes toward them, and developing awareness of their legal rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1956 (October 1998).

**§219. Vocational Modules**

A. A Vocational Evaluation/Assessment shall utilize professionally accepted methods based on client-specific needs to result in a suitable and appropriate employment goal.

B. A Community Based Situational Assessment shall be client-specific to result in a suitable and appropriate employment goal.

C. Employment Preparation (Job Club, Job Readiness, Job Retention Training, etc.)

1. The employment preparation should be provided according to the needs identified in the evaluation/assessment and IPE.

2. The employment preparation should be provided according to goals that are specific and individualized to meet the demands of the employment goal.

3. The employment preparation should result in skills required for successful placement of the individual into a job in the community based on the designated employment goal.

D. Job Development/Placement

1. Job development and placement of LRS clients should meet the employment goal cited in the IPE.

2. The CRP shall provide documentation of the job development efforts which are consistent with the employment goal on the client's IPE.

3. Client shall be placed into an integrated competitive employment position and be compensated at or above the minimum wage, but not less than the customary or usual wage paid by the employer for the same or similar work performed by individuals who are not disabled.

4. Individuals should be followed in their employment progress for at least 90 days and should be contacted at 6-month and 12-month intervals to ascertain progress.

5. The CRP shall have an 80 percent placement and retention rate of all individuals referred by LRS, for job development and placement.

6. The CRP shall maintain and disseminate client performance information regarding their employment to LRS staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1957 (October 1998).

# Chapter 3. Commission for the Deaf

**§301. Name**

The name shall be the Louisiana Commission for the Deaf, hereinafter referred to as the "commission," established by Act 629 of the 1980 Regular Session of the Legislature, and signed into law by the governor, on July 24, 1980.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), repromulgated LR 21:589 (June 1995).

**§303. Rules of Operation**

A. Purpose. The purpose of the *Rules of Operation* is to provide for the orderly conduct of the affairs of the commission.

B. *Robert's Rules of Order, The Modern Edition*, shall govern meetings of the commission, and its committees, boards, and task forces.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

**§305. Role and Function**

A. Duties. The duties of the commission, as mandated by law, are to:

1. promote, coordinate, and facilitate accessibility of all public and private services to deaf people;

2. serve as advocate for the needs and rights of deaf people;

3. collect information concerning deafness and provide for the dissemination of this information;

4. develop and implement a statewide program to ensure continuity of services to deaf people;

5. inform deaf citizens, parents, and families of the availability of programs and services for deaf adults and children at all levels of state and local government;

6. promote the training of interpreters and assist in the establishment of interpreter training programs;

7. certify interpreters and maintain a registry of certified interpreters;

a. the commission shall not promulgate any rule or regulation which denies a hearing-impaired person's right to choose his interpreter;

b. the commission shall exempt from the requirement of certification interpreters of religious services;

c. the commission shall establish and appoint a five-person Interpreter Certification Board, at least one of

whom shall be deaf and at least one of whom shall be an educational interpreter;

i. the ICB shall report to and advise the commission in the administration of the certification program for sign language interpreters, including any specialized interpreters;

ii. the Interpreter Certification Board shall make recommendations to the commission regarding interpreter certification programs;

d. the commission shall charge reasonable fees to cover the administrative costs of applications, examinations, and renewal of certificates;

e. the commission shall waive examination requirements for applicants with valid certification from another state, based on the board's recommendation for reciprocity/recognition;

f. the commission shall adopt procedures under which certificates will exp ire;

g. the commission shall specify procedures outlining grounds for denying, suspending, or revoking interpreters' certificates, and for disciplining interpreters;

h. the certification of interpreters by the Louisiana Commission for the Deaf shall not be applicable to the Louisiana State Department of Education or to any of the local educational agencies and special board schools throughout the state under the supervision of the Board of Elementary and Secondary Education. Such certification shall incorporate an evaluation conducted by the Interpreter Certification Board of the Louisiana Commission for the Deaf;

8. provide all services of the commission to deaf people with visual impairments;

9. provide interpreter services to the deaf in accordance with rules and regulations adopted by the commission; and

10. establish, administer, and promote a statewide program to provide access to all public telecommunication services by persons who are deaf, deaf/blind, and others such as severely hearing impaired or severely speech impaired. This program shall include, but is not limited to:

a. the purchase and distribution of telecommunication devices and related devices for the person listed above;

b. the creation of a dual party relay system to function as a commu nications bridge between members of the deaf and hearing citizenry; and

c. the creation of a Telephone Access Program Board.

B. Role. The commission will provide priorities and guidelines to the staff to assist them in fulfilling the duties listed in ' 305.A, above.

C. Function. The commission shall serve as a mechanism for providing input to the secretary of the Department of Social Services; through the director of Louisiana Rehabilitation Services, to the State Legislature and the governor on the needs of individuals who are deaf and/or hard of hearing. This will include the preparation of an annual report which will review the status of services available to the people who are deaf and hard of hearing in Louisiana, and to recommend priorities for appropriate programs and services to this population.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:494 (March 1998).

**§307. Composition of the Commission**

A. Membership. Membership of the commission is specified by law and consists of 17 members. Ten members are legislated by position held, and seven members are appointed by the governor. These members include:

1. legislated members:

a. the coordinator of Vocational Rehabilitation Services to the Deaf, or designee;

b. the president of the Association of the Deaf, or designee;

c. the president of the Registry of Interpreters for the Deaf, or designee;

d. the superintendent of the School for the Deaf, or designee;

e. the secretary of the Department of Social Services, or designee;

f. the superintendent of the Department of Education, or designee;

g. the secretary of the Department of Labor, or designee;

h. the speaker of the House of Representatives, or designee;

i. the president of the Senate, or designee; and

j. the secretary of the Department of Health and Hospitals, or designee.

2.a. appointed members:

i. two lay members who shall be deaf persons;

ii. two lay members who shall be parents of deaf individuals;

iii. two lay members who shall be professionals who work with deaf individuals; and

iv. one lay member who shall be a hard-of-hearing person.

b. Each appointment by the governor shall be submitted to the Senate for confirmation. Beginning in 1984, every appointment shall be submitted by the governor to the Senate for confirmation every two years. Newly appointed members of the commission shall participate in an orientation to the role and functions of the commission through the office of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:495 (March 1998).

**§309. Terms of Membership Service**

A. Terms of service are as follows:

1. Legislated members serve on the commission by virtue of position held and serve as long as the position is maintained unless a legislated member resigns.

2. The designated commission members shall serve on the commission so long as each member maintains the position for which each was originally appointed or until a legislated member resigns.

3. All appointed members shall serve for four years. In the event a vacancy occurs, the appointment shall be made for the length of the unexpired term. Vacancies of appointed members occurring other than by expiration of term in the membership shall be filled by the governor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

**§311. Replacements**

Appointed members may, upon submitting written notice, resign from the commission. The commission shall recommend, upon a majority vote, a list of possible names for the governor's consideration to replace the resigning appointed member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

**§313. Privileges of Membership**

Privileges to be exercised at commission, committee, board, or task force meetings shall include making motions, debating, calling for vote on motions, voting, and other such privileges as are usual and customary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

**§315. Liability**

Members shall not be held personally liable, either individually or as a body, for actions of the commission, its committees, boards, task forces, or employees (R.S. 9:2792.4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

**§317. Compensation**

Members of the commission shall receive no salary for their services, but shall be reimbursed for travel and other approved expenses incurred in the performance of their duties in accordance with travel regulations of the division of administration. Officers of the commission shall be reimbursed for necessary and other expenses incurred in the performance of their duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

**§319. Designees**

In the case of emergency, illness, conflict, etc., a legislated member, who is a state agency head, may name a designee, if written notice of intent is provided to the chair as a letter of introduction. Such designee shall enjoy the privileges of membership including voting privilege during the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

**§321. Officers of the Commission**

A. Eligibility. Only members of the commission may be officers of the commission.

B. Officers. The elected officers of the commission shall be the chair, vice-chair, and secretary. Officers shall be elected biennially, at the December meeting.

C. Term of Office. The newly elected officers shall assume responsibilities immediately following the close of business at the election meeting and shall be limited to two consecutive terms of office.

D. Duties and Responsibilities

1. The chair shall:

a. set the time and place of the regular meetings of the commission;

b. prepare/approve an agenda for each meeting;

c. call special meetings of the commission;

d. call meetings of the executive committee;

e. preside at meetings of the commission and executive committee;

f. chair or name/designate an individual to chair the Telephone Access Program Committee;

g. name an individual to chair the Interpreter Certification Board;

h. appoint members and chairs of committees and task forces;

i. oversee the work of the executive director;

j. be an ex-officio member of all committees, boards, and task forces; and

k. perform other duties as assigned by the commission.

2. The vice-chair shall:

a. preside at meetings of the commission when the chair is absent; and

b. perform other duties as assigned by the commission or delegated by the chair.

3. The secretary shall:

a. review records of all meetings for accuracy; and

b. perform other duties as assigned by the chair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

### §323. Officers Resignations

Commission officers may resign from office upon written resignation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

### §325. Termination of Office

Officers may be removed for cause by a two-thirds vote of the membership of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

### §327. Meeting Protocol

A. The commission, its committees and task forces may adopt, at any meeting, such rules of procedures and order as deemed necessary or convenient, provided these rules do not conflict with the *Rules of Operation*.

B. Regular Meetings. The commission, its committees and task forces shall meet at least once each quarter of the fiscal year, and may meet more often as deemed necessary by the respective chair or membership, not to exceed 12 meetings per year.

C. Special Meetings/Emergency Meetings. Special meetings or emergency meetings may be called by the commission, committee or task force chair, or at the request of two-thirds of the respective membership.

D. Notice

1. Regular Meetings. A minimum of two weeks notice must be provided members for regularly scheduled meetings.

2. Special Meetings/Emergency Meetings. Notice and purpose of special meetings should be provided members at least three days prior to the meeting. In no case shall a meeting be called with less than 24 hours notice.

E. Quorum. No binding business may be conducted an any meeting attended by fewer than 51 percent of the respective membership. Recommendations may be made at meetings attended by fewer than 51 percent of the membership and shall remain as such and not be binding until ratified by an appropriate vote of the membership.

F. Place of Meetings. Regular meetings shall be held at a location most convenient and barrier-free to the membership and the public.

G. Special Support Services. Interpreters and other necessary ancillary support shall be provided for members and participants at all meetings and appropriate functions.

H. Agenda. An agenda for all meetings shall be provided to the respective membership at least two weeks in advance. The commission may take up a matter not on the agenda upon approval of two-thirds of the members present at a public body meeting (R.S. 42:41-12).

I. Minutes

1. Regular Meetings/Special Meetings/Emergency Meetings. Minutes shall be taken at each meeting by commission secretary or his/her designee, and copies of these minutes shall be provided at least two weeks prior to the next regular meeting, to the respective membership to be adopted/ratified. Minutes shall be made available to the public upon request.

2. Executive Sessions. Minutes of routine executive sessions shall be maintained in confidential files not to be shared with the public.

J. Attendance. The missing of two consecutive, regularly scheduled meetings by any individual member/designee, for reason other than just cause, may constitute grounds for a reasonable request for replacement. (See '311 Replacements).

K. Open Meetings. All meetings shall be open, except when, by a majority vote of the members present, it is

deemed necessary to move into executive session (R.S. 42:41-12).

L. Observers. Interested persons may observe meetings, except for executive sessions, and may, at the invitation of the chair, address the membership and be addressed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

**§329. Committees, Boards and Task Forces**

A. Appointment

1. The commission or the executive committee may create standing committees, ad hoc committees, or task forces to carry out the objectives of the commission, and to address issues of significance to individuals who are deaf, in Louisiana.

2. Standing committees or the executive director of the Louisiana Commission for the deaf may recommend names of individuals for their own standing committees, ad hoc committees, or task forces to the chair of the Louisiana Commission for the Deaf to be approved and ratified by the commission.

B. Duties. The duties of such bodies shall be to identify and/or research needs and make recommendations to the commission about ways these needs can be met and to provide a report for each meeting of the commission on the progress of activity.

C. Definition

1. Standing committees may be comprised of commission and/or noncommission members. Composition of committees shall generally reflect a state-wide nature if possible.

2. Maximum membership on any standing committee shall be 11. Terms of membership shall be for two years with re-appointment permitted.

3. Ad hoc committees may be comprised of commission and/or noncommission members. Such committees have a specified purpose and period of existence. Maximum membership on any ad hoc committee shall be nine.

4. Task Forces may be comprised of commission and/or noncommission members and shall consist of a minimum of five members and a maximum number of nine members. The duration and focus of each task force shall be specified, depending on the objectives of the task force.

D. Executive Committee

1. The purpose of the executive committee shall be to respond to urgent matters that preclude the entire commission assembling. Decisions made by the executive committee must be ratified by the commission at its next meeting.

2. The composition of the executive committee shall be the commission's elected officers (chair, vice-chair, and secretary) and two commission members elected by the commission.

3. The executive director may participate at the discretion of the chair in the deliberations of the executive committee as a nonvoting member.

4. If a member of the executive committee becomes unable to function as a member of that body, the executive committee will select an alternate member from the membership of LCD to assume his/her responsibilities on the executive committee. The membership of LCD will be polled to affirm the person selected for membership on the executive committee pending formal approval by LCD at its next regularly scheduled meeting.

E. Interpreter Certification Board (ICB)

1. Purpose. The Interpreter Certification Board, under the auspices of the Louisiana Commission for the Deaf, shall conduct the implementation and maintenance of state sign language certification.

2. Composition Criteria. The Interpreter Certification Board (ICB) shall consist of five members who shall meet the following criteria:

a. possess a minimum of Louisiana State Certificate Level V; or possess Certificate of Deaf Interpretation/Provisional from the Registry of Interpreters for the Deaf; and

b. demonstrate participation in activities of the Deaf Community, such as the Louisiana Association of the Deaf (LAD) and the Louisiana Registry of Interpreters for the Deaf (LRID); and

c. be active in the provision/utilization of interpreting services;

d. one member must be deaf and one member must be an educational interpreter.

3. Appointments

a. While the Commission for the Deaf, the Association of the Deaf, the Registry of Interpreters for the Deaf, and the state Department of Education shall each recommend one person with the criteria in '329.E.2 to serve on the Interpreter Certification Board, final appointment rests with the commission, as delegated by legislation.

b. The chair of the commission shall appoint the ICB chair and one member making sure the minimum number of members who are deaf is met.

4. Officers. Officers of the board shall include the following:

a. chair**C**appointed by the chair of the commission;

b. vice-chair**C**selected by members of the board; and

c. recorder**C**selected by members of the board.

5. Terms of Service. The term of appointment to the ICB shall be for a period of two years, beginning in July of 1994. Terms of service between organizational members will be staggered such that at no time will the entire board be replaced. The first rotation off the board will occur in July 1995. It is understood that the term of office of the chair of the ICB is at the discretion of the chair of the commission. This will require organizations to recommend members every two years to replace the member rotating off the board.

6. Role of Executive Director. The executive director shall:

a. be a nonvoting member;

b. maintain established policies, procedures, and standards of the State Certification Program;

c. conduct and maintain examination(s) and records of the State Certification Program;

d. provide technical assistance; and

e. prepare the ICB budget for review and approval.

7. Role of the ICB. Responsibilities may include, but not necessarily be limited to the following:

a. develop and recommend policies, procedures, and standards for the State Certification Program for Interpreters;

b. revise the State Certification Program;

c. identify, appoint, and train examiners;

d. serve as the first level of appeal for any filed grievances;

e. select times, dates, and locations of screening, written and performance examinations;

f. review the ICB budget and make recommendations; and

g. recommend to the commission to award certificate of candidates successfully completing State Certification Program examinations.

8. Role of the ICB Chair. Responsibilities shall include, but not necessarily be limited, to the following:

a. superintend the progress and agenda of each meeting; and

b. oversee the State Certification Program.

9. Role of the Commission. Responsibilities shall include, but not necessarily be limited, to the following:

a. administer final approval of the State Certification Program;

b. provide funding for the activities of the State Certification Program and the ICB;

c. receive applications from candidates;

d. produce and disseminate certificates to successful candidates;

e. include certified persons in the LCD directory of certified interpreters;

f. provide staff support and services to the board, to include but not necessarily be limited to recording, distribution, maintenance of meeting minutes, report preparation and distribution, securing interpreters and meeting site arrangements;

g. participate in grievances as necessary; and

h. others as necessary.

F. Telephone Access Program Board (TAPB)

1. Purpose. The purpose of the Telephone Access Program Board is to assist the commission in the implementation and maintenance of LAC 67:VII.305.A.10.

2. Responsibilities of the TAPB. Responsibilities include, but are not necessarily limited to:

a. make recommendations to the commission for the selection of staff, rate/surcharge, operating budget, and other related matters;

b. develop and determine functions of the staff;

c. approve the selection of appropriate equipment and develop, evaluate, and modify the distribution system for specialized equipment;

d. approve the development, implementation, evaluation, and modification of a year-round, 24-hour dual-party relay system; and

e. engage in other related activities not inconsistent with legal mandates, nor otherwise prohibited by law.

3. Membership of the TAPB. Membership shall consist of the following individuals:

a. the chair of the Louisiana Commission for the Deaf or designee;

b. the president of the Louisiana Association of the Deaf, Inc., or designee;

c. a representative of the Louisiana deaf community, selected by the Louisiana Commission for the Deaf;

d. the president of the Louisiana Acadiana Deaf-Blind Citizens, Inc., or designee;

e. a representative of the Louisiana hard of hearing community, selected by the Louisiana Commission for the Deaf;

f. a representative of Louisiana Technology Assistive Network (LATAN), selected by LATAN;

g. the chairman of the Public Service Commission, or designee;

h. one public member, selected by the Public Service Commission;

i. a representative of Bell South, selected by Bell South Telephone Company;

j. a representative of the independent phone companies, selected by the Louisiana Telephone Association;

k. a representative of AT&T, selected by AT&T.

l. the superintendent of the Louisiana School for the Deaf or designee, ex-officio;

m. the president of the Louisiana Registry of Interpreters for the Deaf, or designee, ex-officio.

4. Officers of the TAPB. The structure shall provide for:

a. the chair or designee of the Commission for the Deaf to preside as chair of the TAPB;

b. election of a vice chair to preside in the absence of the chair and to perform such duties as are assigned by the TAPB, or delegated by the chair;

c. election of other officer(s) of the TAPB, as deemed necessary;

d. a designee to be appointed should an individual member not be able to serve. A designee may be appointed for the normal term of office of the member designated to serve; and

e. the commission staff to provide services to the committee, to include but not necessarily be limited to recording, distribution, and maintenance of meeting minutes, report preparation and distribution, and meeting site arrangements.

5. Committees. Standing committees shall be:

a. Telephone Relay Services, which shall serve to make recommendations to implement LAC 67:VII.305.A.10.a.; and

b. TDD distribution, which shall serve to make recommendations to implement LAC 67:VII.305.A.10.b.

G. Interagency Communications Committee (ICC):

1. Purpose. The purpose of the ICC is to:

a. establish a network of personnel to notify the deaf community of developments (LAC 67:VII.'305.A.3.);

b. empower the deaf community through invitational leadership development and continuous information sharing ('305.A.5.);

c. assist in the development of priorities for the commission ('305.A.4);

d. meet on a regular basis to develop plans of action to ameliorate existing problems ('305.A.4); and

e. act as referral of all concerns and issues in relating to deafness and the deaf community services.

2. Officers. Officers of the committee shall include the following:

a. chair**C**appointed by the chair of the commission;

b. vice-chair**C**appointed by the chair of the ICC; and

c. the ICC chair shall appoint the membership according to the below criteria.

3. Membership. The membership shall consist of nine individuals selected or appointed by the ICC chair as follows:

a. Region I
New Orleans;

b. Region II
Baton Rouge;

c. Region III
Shreveport/Monroe;

d. Region IV
Lafayette;

e. Region V
Lake Charles; and

f. LAD representative;

g. LRID representative;

h. parent representative;

i. nominal representative (such as a hard of hearing representative, LCD representative or deaf-blind representative)

4. Duties of the Officers. Duties of the officers are:

a. chair:

i. superintend the development of agenda;

ii. moderate all meetings of the ICC; and

iii. sign approved meeting minutes;

b. vice-chair: assume the duties of the chair as requested.

5. Terms of Office

a. officers will be appointed for a period of two years, beginning in 1993.

b. members will be appointed for a period of two years, beginning in 1993. The first appointment of members shall be five members for two years, and four members for one year such that at no time is the entire committee replaced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:495 (March 1998).

**§331. Executive Director**

A. Appointment. The executive director shall be appointed by the secretary of the Department of Social

Services upon recommendation by the commission of a maximum of the three top candidates, after reviewing, screening and interviewing the applicants.

B. Qualifications. The executive director shall be a trained professional, having experience with individuals who are deaf and skilled in the use of sign language. The executive director may be either a person who is deaf or a person with normal hearing, but preference shall be given to a person who is deaf.

C. Duties. The executive director shall:

1. implement the legislated mandates, goals and objectives, and commission policies, procedures, and guidelines under direction of the commission and in coordination with the chairman:

a. administer programs and services of the commission;

b. conduct the work of the commission;

c. provide staff support to and assist in coordinating the work of the commission-related boards, committees, subcommittees, and task forces;

d. arrange and provide for interpreters and necessary special activities in all commission meetings and activities;

e. arrange for public notice and publicity of commission meetings and events;

f. plan, organize, direct, and implement commission programs and objectives affecting all phases of direct and indirect services available to the deaf community;

g. submit recommendations regarding statewide plans, policies, and procedures to the commission;

h. provide policy and procedure interpretation to public and private organizations and individuals on contract for services to the deaf community;

i. analyze program data, goals and objectives to determine effectiveness;

j. recommend need for legislative proposals or changes to the commission;

k. write position papers for the commission;

l. assist in the development of proposals providing innovative service programs for deaf community;

m. coordinate committees and task forces to accomplish the goals and objectives of assigned projects;

n. represent the commission through participation on committees, councils, task forces and boards which stimulate and guide the development of community interest in the commission objectives; and

o. interpret, disseminate, establish priorities, and ensure implementation of commission policies and procedures affecting delivery of deaf community services.

2. Prepare and submit a two-year proposed budget for the commission's review and approval prior to submitting the budget to the director for the Louisiana Rehabilitation Services, and exercises budgetary and contracted responsibility over the commission's administrative and program services:

a. develop and submit a two-year commission budget according to schedule provided by the Louisiana Rehabilitation Services;

b. monitor and verify all expenditures and provide expenditure summaries to the commission at scheduled meetings; and

c. negotiate, develop, and monitor contracts, grants, and fee schedule with individuals or public and private organizations.

3. Implement the Interpreter Certification Board (R.S. 46:2352(7)) in administering final approval of the State Certification Program; provide funding for the activities of the State Certification Board; receive applications from candidates; produce and disseminate certificates; include certified interpreters in the directory of certified interpreters; provide staff support; and participate in grievances.

4. Implement the Telephone Access Program Committee (R.S. 46:2352 (10)) in the provision of specialized telephone equipment for the deaf, hard of hearing, deaf-blind, and speech impaired, distribution of such equipment, and training in the use of specialized equipment, as well as assistance in areas of telephone relay services.

5. Initiate and negotiate agreements with individuals, public and private organizations, and agencies for the provision of services and administrative matters. Also, negotiate and participate in preparation of grants, contracts, agreements, and fee-for-proposals and make recommendations.

6. Promote, coordinate, and facilitate accessibility of all public and private services to deaf people in general:

a. serve as an advocate for the needs and rights of deaf people;

b. collect information concerning deafness and provide for the dissemination of the information;

c. inform deaf citizens, parents, and families of the availability of programs and services for deaf adults and children at all levels of state government through networking with related agencies and organizations such as the Louisiana School for the Deaf, Louisiana Association of the Deaf, Louisiana Registry of Interpreters for the Deaf, and Deaf Action Centers for the Deaf;

d. write quarterly and annual reports of the commission activities and events.

7. Provide direct supervision to the commission staff, including recommending the appointment, promotion, discipline, or dismissal of commission staff in accordance

with agency, DSS and Civil Service rules for personnel administration.

8. Direct the analysis and evaluation of the deaf community service delivery systems to maintain efficient and effective programs.

9. Participate in the deliberations of the commission and its executive committee as a nonvoting member; and

10. Perform any other duties as may be assigned by commission chairman.

D. Dismissal. The commission may recommend to the secretary of the Department of Social Services the removal of the executive director, for cause, by a two-thirds vote of the membership of the commission. Such office, once vacated, shall be filled as soon as possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:495 (March 1998).

### §333. Amendments

The Rules of Operation may be amended by a two-thirds vote of the membership of the commission with written notice of the proposed changes provided to commission members at least 10 days in advance of a regular or special commission meeting at which they are to be proposed. Amendments become effective only after submission and approval is gained through the rulemaking procedure established by the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995).

## Chapter 5.Business Enterprises Program Manual

### §501. Purpose

A. The purpose of the Business Enterprises Program Manual is to provide uniform rules and regulations for the administration of Business Enterprises Programs operated by the State Licensing Agency.

B. The purpose of Chapter 5 is to set forth the legal authority from which these rules are derived, to proclaim the mission of the Business Enterprises Program, define terms used in this body of policy, and to set forth the organization of the Business Enterprises Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:527 (March 1999).

### §503. Mission of the Business Enterprises Program

A. Mission. The mission of the Business Enterprises Program is to establish and maintain business enterprises operated by qualified individuals who are blind.

B. Goals. The goals for the Business Enterprises Program are:

1. provide employment opportunities for qualified persons who are blind by establishing and maintaining Business Enterprises Program Facilities; and

2. administer a continuing process of career development and upward mobility for qualified persons in the Business Enterprises Program.

C. Objectives. The objectives of the Business Enterprises Program are:

1. establish and equip Business Enterprises Program Facilities;

2. assure availability of Business Enterprises Program Licensed Managers;

3. provide management support services to Business Enterprises Program Licensed Managers;

4. develop and maintain standards of conduct and a system of accountability for State Licensing Agency staff;

5. develop and maintain standards of conduct and a system of accountability for Business Enterprises Program Licensed Managers;

6. establish and maintain procedures for quality customer service; and

7. attain the program's financial stability through its administration in an operationally efficient and cost-effective manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:527 (March 1999).

### §505. Federal Legal Authority

A. The Rehabilitation Act of 1973 as amended by the Rehabilitation Act Amendments of 1986 and 1992 - In accordance with Federal Law under Title I of the Rehabilitation Act of 1973 (Public Law 93-112) as amended, including the Rehabilitation Act Amendments of 1986 (Public Law 99-506), and the Rehabilitation Act Amendments of 1992 (Public Law 102-569), vocational and other rehabilitation services are offered to individuals with disabilities through the Department of Social Services, Louisiana Rehabilitation Services.

B. Code of Federal Regulations - Volume 34, Sections 361, 363, 365, and 370.

C. The Randolph-Sheppard Act of 1936, as amended (20 U.S.C. Section 107 et seq.), authorizes designated State Licensing Agencies to establish and administer Business Enterprises Programs in their respective states. The law locates the State Licensing Agency (SLA) for the program in

the individual state or territorial agency which offers vocational rehabilitation services for individuals who are blind under the Rehabilitation Act of 1973, as amended [29 U.S.C. 31-42].

D. Primary regulatory authority for the Business Enterprises Program is found at 34 CFR Part 395. Other regulatory guidelines impacting the Business Enterprises Program are found at 34 CFR Part 361 and 32 CFR 260.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:527 (March 1999).

**§507. State Legal Authority**

A. Louisiana Revised Statutes - R.S. 49:664. Section 6B (1)(b) [Legislative Act that created the Department of Health and Hospitals], R.S. 36:477 (c) [Legislative Act that created the Department of Social Services].

B. Louisiana Act 19 of 1988, effected the merger of the Division of Rehabilitation Services with the Division of Blind Services to form Louisiana Rehabilitation Services.

C. LA R.S. 46:333 gives preference to the blind in operation of vending stands, vending machines, and other small business concessions to be operated on the premises.

D. LA R.S. 46:2641 provides for the establishment of the Blind Vendors Trust Fund.

E. LA R.S. 49:950 (et seq.) is the Administrative Procedure Act for the authority to promulgate rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:528 (March 1999).

**§509. Definitions**

A. The following words or terms, when used in this manual, shall have the following meaning unless the context clearly indicates otherwise:

*Acquired Stock* **C** that stock in which the licensed manager has accrued equity and which the State Licensing Agency, in conjunction with the licensed manager or licensed managers involved, has determined is suitable for use. Stock in which the licensed manager has not accrued equity is not acquired stock and remains the property of the State Licensing Agency.

*Act* **C** the Randolph-Sheppard Vending Facility Act (Public Law 74-732), as amended by Public Law 83-565 and Public Law 93-516, 20 U.S.C., Ch. 6A, Sec. 107.

*Active Participation* **C** a process of good faith negotiations involving the Elected Committee of Licensed Managers and the State Licensing Agency. The Committee must be given the opportunity to have meaningful input into the decision-making process in the formulation of program policies which affect licensed managers. The SLA is charged with the ultimate responsibility for the administration and operation of all aspects of the Business Enterprises Program.

*BEP* **C** the Business Enterprises Program of the State Licensing Agency which provides self-employment opportunities for qualified persons who are blind.

*BEP Administrator* **C** the person who has responsibility for the operation of the Business Enterprises Program in the state.

*Blind Person* **C** a person who, after examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the person shall select, has been determined to have:

1. not more than 20/200 central visual acuity in the better eye with correcting lenses; or

2. an equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

*Blind Services Executive Director* **C** the person responsible for administering and coordinating services to the blind and severely visually impaired individuals of the State.

*Blind Vendors Trust Fund* **C** monies collected from certain vending machines located on state, federal, and other property, and the disbursement thereof.

*Board* or *Commission* **C** the governing body for the State Licensing Agency.

*Business Consultant (BC)* **C** an individual who provides consultative and management services to those business enterprises and licensed managers in the area of the State to which the consultant is assigned.

*Business Enterprise* **C** an approved business administered by the State Licensing Agency. See definition of *Vending Facility*.

*Business Enterprises Program (BEP)* **C** the Business Enterprises Program services available to establish business enterprises for persons who are blind.

*Cafeteria Facility* **C** a food dispensing business enterprise capable of providing a broad variety of prepared foods and beverages (including hot meals) primarily through the use of a line where customers serve themselves from displayed selections. A cafeteria may be fully automatic or provide limited waiter or waitress service. Table and/or booth seating facilities are always provided.

*Commissioner* **C** the Commissioner of the Rehabilitation Services Administration (RSA) who exercises approval authority for the Federal government under the Randolph-Sheppard Act.

*Committee* **C** the State Elected Committee of Licensed Managers.

*Consumer* **C** any person who has made application for the State Licensing Agency's services and has been determined by the State Licensing Agency to be eligible for services.

*Contract***C**a written agreement between the State Licensing Agency and officials in control of Federal or other property to establish a business enterprise.

*Contract Labor***C**a person or company that performs duties or services not a part of the regular duties of the business enterprise.

*Counselor***C**Rehabilitation Services counselors assigned to the State Licensing Agency's program of Vocational Rehabilitation.

*Director or Executive Director***C**the chief administrator of the State Licensing Agency.

*Displaced Licensing Manager***C**a licensed manager who has been displaced from his or her business enterprise through no fault of his or her own.

*Dry/Wet Facility***C**all facilities providing manual dispensing of prepackaged articles, refreshments, and services.

*Elected Committee of Licensed Managers (ECM)***C**the committee elected biennially by licensed managers in accordance with 34 CFR 395.14.

*Equipment, Expendable***C**items having a relatively small cost per item and having a relatively short life expectancy.

*Equipment, Non-Expendable***C**all necessary equipment which requires a relatively high capital outlay and has a normal life expectancy of several years.

*Federal Property***C**any building, land, or other real property owned, leased, or occupied by any department, agency, or instrumentality of the United States (including the Department of Defense and the United States Postal Service), or any other instrumentality wholly owned by the United States.

*Federal Regulations***C**the regulations issued pursuant to the Randolph-Sheppard Act.

*Grantor***C**a Federal, State, County, Parish, city government, private corporation, company, partnership, or individual who grants a permit or enters into an agreement with the State Licensing Agency to operate a business enterprise on its/their property.

*Grantor's Agreement***C**a written document between a grantor and the State Licensing Agency which sets forth the terms, conditions and responsibilities of all parties to the agreement for the operation of a business enterprise on private and/or public property.

*Gross Receipts***C**all revenue including sales tax.

*Initial Stock and Supplies***C**those resalable items or supplies necessary for the opening and operation of a specific type of business enterprise.

*Interim Manager***C**a licensed manager appointed to manage a business enterprise on a temporary basis.

*License***C**a written instrument issued by the State Licensing Agency to a person who is blind, authorizing such person to manage a business enterprise.

*Licensed Manager***C**a licensed individual who has signed an agreement with the State Licensing Agency to manage a Randolph-Sheppard Business Enterprise under the supervision of the State Licensing Agency, or an individual awaiting assignment to a business enterprise.

*Licensing Agency***C**the State Licensing Agency, which has been designated by the Commissioner, pursuant to the Act, to issue licenses to persons who are blind for the management of business enterprises.

*Management Services***C**inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis to support and improve business enterprises operated by licensed managers.

*Manager's Agreement***C**an agreement between a licensed manager and the State Licensing Agency, establishing basic terms and conditions for management of a business enterprise.

*Net Earnings* or *Net Profits***C**gross profit after deducting operating expenses and set-aside collected.

*Net Proceeds***C**the amount remaining from the sale of articles or services of business enterprises and a vending machine income or other income accruing to licensed managers after deducting the cost of such sales and other authorized expenses excluding set aside charges required to be paid by the licensed managers.

*Net Sales***C**the sum total of sales, excluding sales tax.

*Other Income***C**money received by a licensed manager from sources other than over the counter and machine sales.

*Other Property***C**property which is not Federal property and on which business enterprises are established or operated by the use of any funds derived in whole or in part, directly or indirectly, from the operation of vending facilities on any Federal property.

*Permit***C**the official approval given a State Licensing Agency by a Department, Agency, or Instrumentality in control of the maintenance, operation and protection of Federal property or person in control of other property where the State Licensing Agency is authorized to establish a business enterprise.

*Purveyor***C**an approved source of supply for food, beverages, supplies, or services.

*Randolph-Sheppard Act***C**Public Law 74-732 as amended by Public Law 83-565, Public Law 93-516, and Public Law 95-602, 20 U.S.C. Chapter 6A, Section 107.

*Routine/Preventive Maintenance***C**the regular care, upkeep, and cleaning of equipment used in a business

enterprise whether owned by the State Licensing Agency or the licensed manager.

*Rules and Regulations*—the instrument written by the State Licensing Agency and approved by the Secretary of Education setting forth the conduct and operation of the Business Enterprises Program.

*Salable Stock*—products comprising the merchandise available for sale to the public.

*Satellite Business Enterprise*—a business enterprise without a permanently assigned licensed manager which is being operated by a licensed manager who is also operating his/her regularly assigned business enterprise.

*Satisfactory Site*—an area determined by the BEP Administrator to have sufficient space, electrical and plumbing outlets, and other such accommodations as prescribed by the Act, for the location and operation of a business enterprise in accordance with applicable health laws and building codes.

*Secretary*—the United State Secretary of Education.

*Snack Bar Business Enterprise*—a business enterprise engaged in selling limited lines of refreshment and prepared food items necessary for a light meal service.

*State Licensing Agency (SLA)*—the State agency that issues licenses to persons who are blind for the operation of business enterprises on public and/or private property.

*State Property*—lands, buildings, and/or equipment owned, leased, or otherwise controlled by the State.

*Statewide Average Manager Earnings*—the average annual manager earnings as calculated each year for the RSA-15 Report.

*Trainee*—a qualified Vocational Rehabilitation consumer, who when referred to the Business Enterprises Program, is placed in training to prepare for licensing under the rules and regulations of the State Licensing Agency.

*Training Program*—the program of study and/or on-the-job training provided to prospective and/or experienced licensed managers.

*Vending Facility*—automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment which may be operated by licensed managers and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws and including the vending or exchange of changes for any lottery authorized by State Law and conducted by an agency of a State within such State [CFR 34, Part 395.1(x)].

*Vending Machine*—any coin or currency operated machine which dispenses articles or services, except any machine operated by the United States Postal Service for the sale of postage stamps or other postal products and services. Machines providing services of a recreational nature and telephones shall not be considered to be vending machines.

*Vending Machine Facility*—an automatic coin or currency operated business enterprise which dispenses a variety of food and refreshment items and services. Including in this category would be interstate highway locations.

*Vocational Rehabilitation Services*—those services as defined in the Rehabilitation Act, 1973, as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:528 (March 1999).

### §510. Promulgation of Business Enterprises Program Policies

A. Rules and procedures, that is, the policies governing the administration of the Business Enterprises Program are developed and maintained in accordance with the Randolph-Sheppard Act [20 U.S.C. Section 107 et seq.], the Rehabilitation Act [29 U.S.C. 31-43], and the Louisiana Administrative Procedure Act [R.S. 49:950 et seq.].

B. The rulemaking authority is the Department of Social Services, Louisiana Rehabilitation Services, hereinafter referred to as the State Licensing Agency (SLA). Promulgation of rules and procedures governing the Business Enterprises Program follows the process Louisiana Administrative Procedure Act (R.S. 49:950 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:530 (March 1999).

### §511. Policy of Non-Discrimination

A. The State Licensing Agency assures that it shall not exclude from participation, deny the benefits of the program or otherwise subject any person to discrimination because of the person's gender, age, physical or mental impairment, religion, race, creed, national origin, or political affiliation in accordance with the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 as amended, and the Americans with Disabilities Act of 1990.

B. Every licensed manager of a Business Enterprises Program Facility shall operate the business enterprise in such a manner that no person shall be subject to discrimination because of the person's gender, age, physical or mental impairment, religion, race, creed, national origin, or political affiliation whether that person is a present or prospective supplier, customer, employee or other individual who might come into contact with the enterprise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:530 (March 1999).

### §513. Accessibility of Written Materials

A. Upon advance request, all written materials will be provided to each licensed manager in a format accessible to

that Manager, to the extent practical. It is the responsibility of the licensed manager to inform the business consultant of the accessible format needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:530 (March 1999).

**§515. Organization of State Licensing Agency**

A. Louisiana Department of Social Services, Louisiana Rehabilitation Services (LRS), is designated as the sole state agency under a state plan for vocational rehabilitation services approved pursuant to the provisions of the Rehabilitation Act of 1973, (29 U.S.C., Ch. 16) and approved by Rehabilitation Services Administration as the State Licensing Agency.

1. Louisiana Rehabilitation Services Director. The Senior Administrative official of the Agency.

2. Blind Services Executive Director. Administers and coordinates services to the blind.

3. Central Office Staff. The program is administered by the Randolph-Sheppard Program Manager who reports to the Blind Services Executive Director.

4. Field Staff. The state is divided into specific geographic areas for the purpose of administering the Business Enterprises Program, and a business consultant (Randolph-Sheppard Management Analyst) is assigned to each area. The RSMA provides the link between the licensed managers and the central office and is authorized to provide the services and is obligated to assist and support the licensed managers in complying with the rules and regulations of the Rehabilitation Services Administration and the SLA relative to business enterprises established under the Randolph-Sheppard Act.

5. Licensed Managers. The individual enterprises established by the Business Enterprises Program are managed by licensed managers who derive their livelihood from net profits of the operations. Licensed managers are subject to instructions, policies, rules and regulations of the Business Enterprises Program, but are not employees of the program, the SLA, or the State of Louisiana. They do, however, have a contractual relationship with the SLA and are required to manage the facilities in accordance with established rules and regulations.

6. Duties of the Business Enterprises Program Administrator. The duties of the Business Enterprises Program Administrator are:

a. assures compliance with all applicable rules, regulations and statutory provisions;

b. prepares program budgets and approves expenditures;

c. plans for the development and expansion of the program and upgrading of existing facilities;

d. drafts program policy, operating instructions and regulation changes as needed to make the program more efficient or to conform to current legislative mandates;

e. promotes the program to the general public; and

f. actively participates with the ECM in accordance with 34 CFR 395.14.

7. Duties of the RSMA. The duties of the Randolph-Sheppard Management Analyst are:

a. assists each licensed manager to operate the business enterprise within applicable rules and regulations;

b. initiates negotiations for new facilities;

c. oversees the development of new installations;

d. conducts public relations activities which promote a positive image of the program to existing and potential host organizations, rehabilitation workers, consumers, and the general public;

e. provides management services to licensed managers;

f. collects and analyzes data on the operation of each business enterprise in order to provide technical assistance and for monitoring and reporting purposes; and

g. communicates with the district EMC on district operations.

8. Guidelines for Communication. Communication of information is to occur so that the best interests of the Business Enterprises Program are served. This is best accomplished when information is shared and acted upon by those who can respond most effectively in the circumstances. The administrative staff of the SLA is responsible for assuring that active communication among SLA staff and licensed managers contributes to the effective operation of the entire Business Enterprises Program. Management services and operational matters are best handled by communicating with the appropriate RSMA. Section 515.A.8.a-c describe appropriate levels to which various types of communication should be directed.

a. Communications originated by a licensed manager. The licensed manager is to maintain appropriate and professional communication with customers and building management personnel. The point of communication for licensed managers with the SLA is the RSMA. Circumstances in which a licensed manager may contact the Business Enterprises Program Administrator are:

i. when a problem cannot be resolved through normal channels;

ii. when there is a specific complaint concerning the conduct and/or behavior of a RSMA; or

iii. when an emergency develops and the RSMA is not available.

b. Randolph-Sheppard Management Analyst Communication. An RSMA is expected to maintain open and ongoing communications with all the licensed managers

in his/her area. Should a situation require immediate action beyond the RSMA's authority, he/she may contact the proper administrative official. All significant information will be communicated to the BEP Administrator at the earliest opportunity.

c. Written Communications. Any communication of major consequence is to be documented in writing. Situations needing immediate action are to be addressed promptly by the appropriate official and subsequently documented in writing. Records of written documentation will be maintained in accordance with agency policy. Written requests require written responses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:530 (March 1999).

### §517. Management Services Provided by the State Licensing Agency

A. Overview of Management Services. Management services include inspection, quality control, consultation, accounting, annual fiscal accountability reviews, regulating, in-service training, and other related services on a systematic basis to support and improve vending facilities.

B. Technical Assistance Services. The SLA shall provide each licensed manager with:

1. recommendations for optimizing business enterprise profitability;

2. recommendations and feedback on business enterprise operations including quality, service and cleanliness;

3. possible solutions to problems recognized by the licensed manager or brought to the licensed manager's attention by BEP staff or the Grantor;

4. providing upward mobility and in-service training; and

5. explanation of the SLA's procedures, policies, and standards.

C. Responsibilities of the Randolph-Sheppard Management Analyst. The RSMA will consult with the respective ECM representative on district issues, as appropriate. RSMAs are required to assist licensed managers in their district to meet Business Enterprises Program requirements through review and consultation on:

1. compliance with applicable laws and program regulations;

2. hiring employees in accordance with rules and regulations;

3. compliance with all conditions in the licensed manager's license;

4. assuring that merchandise is:

a. sold in accordance with the grantor's agreement;

b. neither purchased or sold on credit; and

c. of high quality, adequately stocked, and properly displayed;

5. standards for employee personal appearance and hygiene;

6. quality customer service;

7. maintenance of sanitation and safety standards;

8. proper maintenance of equipment;

9. communications and working relationships between the licensed manager and customers, suppliers, employees, grantor, and the general public;

10. SLA and other agency requirements for record keeping; and

11. licensed manager performance evaluations.

D. Business Consultant Business Enterprise Visits. Business consultant business enterprise visits shall be made as often as necessary to ensure the continued success of the business enterprise. The business consultant will work with licensed managers to maximize profits. Each time the business consultant visits a business enterprise, he/she will complete a business enterprise visitation report.

E. Business Enterprise Reviews. The business consultant shall complete an inspection of the business enterprise using a standard form as needed. The report shall be discussed with and signed by the licensed manager.

F. Visits by the Program Administrator. The Program Administrator will periodically visit business enterprise facilities.

G. Assistance of Rehabilitation Staff. At the request of the business consultant or other BEP staff member, rehabilitation staff will provide necessary assistance to the program when the best interest of the licensed manager or the SLA needs such assistance.

H. SLA Provision of Training. The SLA shall ensure that effective programs of vocational and other training services, including personal and vocational adjustment, books, tools, and other training materials, shall be provided to trainees as vocational rehabilitation services. Such programs shall include on-the-job training in all aspects of business enterprise operations for licensed managers, and upward mobility training including further education and additional training or retraining for improved work opportunities for all licensed managers. (34 CFR 395.11)

1. Training for New or Potential Licensed Managers. Training for potential or new licensed managers will cover the basic and common knowledge, skills, and abilities necessary to operate a business enterprise. This training will use instruction and on-the-job training to cover such topics as the history and statutory foundations of the BEP, acceptable business practices, the rules and regulations of the BEP, employee supervision, food preparation and handling, operation and maintenance of equipment and furnishings, merchandising, and quality customer service.

2. Training for Present Licensed Managers. Post-employment training will be provided by the SLA to encourage greater professional competence and to promote the upward mobility of the licensed manager. The training will, through instruction and on-the-job training, enhance the knowledge, skills, and abilities needed to operate and improve the operation of present enterprises, and to prepare for the operation of a more comprehensive enterprise, supervisory practices relevant to larger operations, changing policies and laws, and state of the art merchandising techniques and equipment. Such a training program will also incorporate the use of peer trainer workshops in best practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:531 (March 1999), LR 27:1561 (September 2001).

### §519. State Licensing Agency Responsibilities for Business Enterprise Operations

A. Business Enterprise Equipment and Fixtures. The SLA will provide each business enterprise with fixtures and equipment in such quantity and quality so as to give reasonable assurance of successful operation by the licensed manager.

B. Additions, Deletions, or Modifications to Equipment. The licensed manager will make no additions, deletions or modifications to the business enterprise and its operation, in the form of equipment, fixtures or facilities, without first obtaining written authorization from the SLA.

C. Maintenance and Replacement of Business Enterprise Equipment. The SLA shall maintain, or cause to be maintained, all business enterprise equipment in good repair and in an attractive condition and shall replace or cause to be replaced worn-out and obsolete equipment as required to ensure the continued successful operation of the business enterprise. (34 CFR 395.10)

D. Initial Inventory and Supplies. The SLA shall provide for initial inventory of merchandise for resale and for operating a business enterprise by a licensed manager.

E. Assignment, Transfer of Licensed Managers. The SLA will carry out assignment and transfer of licensed managers through business enterprise vacancy announcements, eligibility verification, and establishing and convening a screening committee.

1. Business Enterprise Vacancy Announcement

a. The SLA will develop minimum qualifications specific to the characteristics of the vacant enterprise. These minimum qualifications will establish the level of accomplishment expected of the applicant for the vacant business enterprise in each of the areas to be considered by the Screening Committee as described in ' 519.E.2. Priority will be given to displaced licensed managers:

i. location, type of enterprise, and general description of operations;

ii. minimum qualifications;

iii. for a new enterprise, estimates of monthly net sales based upon potential patronage, with disclaimer this estimate is not a guarantee of sales; and

iv. application due date.

2. Eligibility Verification and Referral to Screening Committee. The SLA shall provide a list of eligibility criteria and refer eligible applicants to the Screening Committee. Selection shall be based upon:

a. managerial and other skills and abilities demonstrated by the licensed managers under consideration as they fit the available business enterprise, including:

i. handling labor needs;

ii. complexity of financial skills;

iii. food preparation and production; and

iv. customer relations;

b. previous records of the licensed manager under consideration, including:

i. consideration of the timeliness and accuracy of record keeping;

ii. customer satisfaction;

iii. improvements in profits;

iv. safety and sanitation inspections;

v. fees, taxes, and bill payment history;

vi. initiative shown in upgrading skills;

vii. regularity of work attendance;

viii. compliance with applicable rules and laws; and

ix. past evaluations by the SLA;

c. seniority of eligible licensed manager.

3. Screening Committee and Recommendation for Assignment. The Screening Committee shall be established and convened by the SLA. The Screening Committee will consider applicants for assignment and transfer. The committee shall make recommendation(s) to the SLA or designee. At least one member of the Screening Committee shall be a representative of the Elected Committee of Managers.

F. Vending Machine Income. Vending machine income will be managed by the following.

1. Vending machine income from vending machines on Federal property which has been disbursed to the SLA by a property manager under the vending machine income sharing provisions of the Federal Regulations shall accrue to each licensed manager operating a business enterprise on Federal property in an amount not to exceed the average net income of the total number of licensed managers, as determined each fiscal year on the basis of each prior year's operations, except that vending machine income shall not

accrue to any licensed manager in any amount exceeding the average net income of the total number of licensed managers in the United States. [34 CFR 395.8(a)]

2. No licensed manager shall receive less vending machine income than he/she was receiving during the calendar year prior to January 1, 1974, as a direct result of any limitation imposed on such income under this ceiling. (34 CFR 395.32)

3. One-hundred percent (100%) of all vending machine income from vending machines on Federal property which are in direct competition with a business enterprise operated by a licensed manager will accrue to the SLA which shall disburse such income to such licensed manager operating such business enterprise on such property provided that the total amount of such income accruing to such licensed manager does not exceed the maximum amount determined under 34 CFR 395.8(a). In the event that there is income in excess of the maximum amount which may be disbursed to the licensed manager under 34 CFR 395.8(a), such additional income shall accrue to the SLA for purposes determined in accordance with 34 CFR 395.8(c). [34 CFR 395.32(b)]

4. The SLA will disburse vending machine income to qualifying licensed managers on at least a quarterly basis. [34 CFR 395.8(b)]

5. Vending machine income retained by the SLA will be sued in accordance with applicable Federal regulations. [34 CFR 395.8(c)]

6. Unassigned income from non-Federal property is used to develop and enhance the BEP.

G. Due Process. The SLA provides procedures for fair hearings of licensed managers' grievances. These procedures provide each licensed manager the opportunity to seek remediation of dissatisfaction with any SLA action arising from the operation of the BEP and are set forth in the following.

1. Informal Administrative Review. It is the policy of the SLA to resolve complaints in an expeditious and facilitative manner. These resolutions shall be accomplished through the informal administrative review process whenever possible. A licensed manager has the right to request a full evidentiary hearing at any time within established due process time lines.

a. Information administrative reviews are conducted by the SLA staff person closest to the problem who was not involved in the action resulting in the complaint, and who can resolve the complaint in the most expeditious manner.

b. The information administrative review is to be completed within 45 calendar days of receipt of the written complaint to the appropriate SLA staff person.

c. The results of the informal administrative review are to be reported in writing to the BEP Administrator, with a copy going to the licensed manager affected.

2. Full Evidentiary Hearings. Licensed managers have the right to a full evidentiary hearing to resolve dissatisfaction with any SLA action arising from the operation or administration of the Business Enterprises Program. Evidentiary hearings shall be conducted as set forth in the following.

a. If the complaint cannot be resolved with an informal administrative review, or in the absence of an information administrative review, the licensed manager may request a full evidentiary hearing. The request for a full evidentiary hearing must be made to the BEP Administrator in writing within 30 calendar days from the date the licensed manager receives the written notification of adverse action, or the written report of the information administrative review. The request for a full evidentiary hearing is to be sent by certified mail.

b. The licensed manager may be represented in the evidentiary hearing by legal counsel, or other representation of the licensed manager's choice, and at the licensed manager's expense.

c. Reader services or other reasonable accommodations will be arranged by the SLA upon the request of the licensed manager.

d. The hearing will be scheduled by the SLA for a time and place convenient and accessible to the licensed manager and the SLA staff involved in the hearing. The licensed manager will be notified of the place and time of the hearing and the right to be represented by legal or other counsel in writing.

e. The hearing will be conducted by an impartial and qualified official with no involvement or vested interest in the SLA, action at issue, or with the operation of the affected business enterprise. The presiding officer will conduct the hearing in accordance with State and/or Federal laws and rules governing the conduct of such proceedings. In any case, the hearing will be conducted in a manner that avoids delay, maintains order, and provides for a full recording and reporting of the proceedings so that a full and true disclosure of the facts and issues occurs.

f. The hearing officer's determination will be based upon the facts as presented by both parties and upon applicable law, and the existing rules of the SLA. The hearing officer does not have the power to rule upon the legality or construction of the rules themselves. The officer's decision will determine the relevant issues and facts to be ruled upon.

g. The hearing officer shall make a written report of the evidence presented, the laws and rules used in determining a resolution, and the resolution itself. This report shall be issued to the BEP Administrator and the licensed manager, or his/her authorized representative within 15 calendar days of the conclusion of the full evidentiary hearing.

h. If the licensed manager is dissatisfied with the decision, she or he may request that the Secretary (USDE) convene an arbitration panel.

3. Arbitration of Complaints after the Evidentiary Hearing. The licensed manager has the right to file a request for arbitration with the Secretary (USDE) if dissatisfied with the outcome of the evidentiary hearing. By filing a complaint with the Secretary, the operator consents to the release of information necessary for the conduct of an ad hoc arbitration panel.

a. The complaint must be filed in writing and must contain:

i. statement of the grievance;

ii. the date and place of the full evidentiary hearing;

iii. a copy of the decision and what actions have been taken because of the decision;

iv. the part of the decision which is causing the dissatisfaction and reason for the dissatisfaction; and

v. a statement as to what is required to remedy the situation.

b. The Secretary (USDE) will convene an arbitration panel after receiving a compliant which meets the requirements in '519.G.3.a.i. - v. The decision of the panel will be final, except as provided for in 20 U.S.C. 107d-2. The Secretary will pay the reasonable costs for the arbitration. An abstract of the arbitration decision will be published in the *Federal Register*. The panel will be convened by the Secretary in accordance with the following:

i. the SLA shall designate one member of the panel;

ii. the licensed manager shall designate one member of the panel;

iii. the designees of the SLA and the licensed manager shall together designate the third panel member who shall not be an employee of the SLA or its parent agency. This member shall be the chairperson of the panel; and

iv. if the SLA or licensed manager does not select a member for the panel, the Secretary will designate such a member on the applicable party's behalf.

4. Arbitration of SLA Complaints Against Federal Agencies. The SLA is to resolve problems related to the operation of a business enterprise with the full participation of the licensed manager and the appropriate property manager. The SLA may file a complaint with the Secretary (USDE) if it determines that an agency controlling Federal property is not complying with the provisions of the Randolph-Sheppard Act of U.S. Department of Education regulations. After the complaint is received, the Secretary will convene an arbitration panel. If the panel finds that the Federal agency is in violation of the Act or USDE regulations, that Federal agency will be notified that it is expected to correct the violation according to 20 U.S.C. 107d-2. The Secretary pays the reasonable costs of this arbitration. The decision resulting from the arbitration will be published in the *Federal Register*. The arbitration panel will be convened by the Secretary in accordance with the following:

a. the SLA will designate one member of the panel;

b. the agency controlling the Federal property over which the dispute arose will designate one member of the panel;

c. the designees of the SLA and the agency controlling the property will designate a third member who is not an employee of the agency. This member will chair the panel; and

d. if either the SLA or the head of the Federal department, agency, or instrumentality fails to designate a member of an arbitration panel, the Secretary shall designate such member on behalf of such party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:532 (March 1999).

**§521. Licensed Managers**

A. Licensing Requirements for Operating a Business Enterprise

1. Definition of License. A license is a written instrument issued by the SLA to a licensed manager, authorizing such person to operate a business enterprise on Federal or other property. (34 CFR 395.1)

2. Issuance and Conditions of License. A license shall be issued by the SLA in accordance with Federal regulations making the individual eligible to operate a business enterprise. The license shall be prominently displayed in the licensed manager's business enterprise. The license remains effective for an indefinite length of time, unless terminated, suspended, or revoked by the SLA in accordance with State and Federal regulations. A license issued to a qualified individual is non-transferable. (34 CFR 395.7) Requirements for the issuance of a BEP license are that the individual:

a. must be blind as verified by documentation (34 CRF 395.7);

b. must be a U.S. citizen residing in the State in which he/she desires to be trained and licensed. Birth certificate or other applicable documentation must be submitted with application (34 CFR 395.7);

c. be at least 18 years of age or older;

d. have completed all services on the Individualized Written Rehabilitation Program which are prerequisite for the training program;

e. have documentation of independent living skills;

f. be a high school graduate or have a GED;

g. have basic math skills; and

h. have successfully completed the BEP Training Program.

3. Termination of Agreement or Removal from an Enterprise. The SLA may terminate a manager's agreement and/or immediately remove the licensed manager from operation of a business enterprise for cause shown. Termination of a manager's agreement or removal from operation of a business enterprise does not necessarily mean that the manager's license will be suspended or terminated. The licensed manager has the right to a full evidentiary hearing when dissatisfied with any State Licensing Agency action in accordance with BEP, State, and Federal regulations.

4. Termination of License. A license automatically expires when the licensed manager is no longer a U.S. citizen, no longer meets the definition of legal blindness, surrenders his/her license, resigns, retires, or dies. A license may be terminated or suspended by the SLA, after affording the licensed manager an opportunity for a full evidentiary hearing, in accordance with BEP, State, and Federal regulations. [34 CFR 395.7(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:534 (March 1999).

### §523. Operation Standards for Licensed Managers

A. The licensed manager is expected to operate in accordance with the established rules and regulations of the BEP, within the terms of the licensed manager's agreement with the SLA and the grantor's agreement, contract, or permit. The licensed manager may not act as an agent of the SLA. Specifically, the licensed manager will:

1. work cooperatively with authorized representatives of the SLA in connection with their official responsibilities;

2. operate the business enterprise in accordance with all applicable health laws and regulations, safety regulations and other Federal, State, county, and municipality laws and regulations applicable to the business enterprise;

3. dress and maintain a level of personal hygiene which will convey a positive public image;

4. supervise employees in a manner that promotes quality customer service;

5. operate the business enterprise on a cash basis unless otherwise authorized by the SLA;

6. arrange for continued operation of the enterprise in the case of absences;

7. maintain daily records of gross receipts, merchandise purchased, cash on hand, and personal withdrawals from the business enterprise, and other records as established by the BEP;

8. maintain and display current licenses and permits, including BEP license, in the business enterprise;

9. complete and submit all required Federal and State reports and payments for each business enterprise;

10. comply with all regulations and laws governing the possession and/or use of firearms, weapons, alcohol and other drugs; and

11. maintain appropriate professional relationships with suppliers, customers, and building officials as in '523.B - D.

B. Relationships with Suppliers/Purveyors. The licensed manager is free to choose the suppliers from whom he/she is to make purchases, provided, however, that such suppliers are established and reputable.

C. Relationships with Customers. To serve the best interest of the public, the licensed manager and his/her employees must:

1. provide prompt, cheerful and courteous service to all customers and accommodate, within reasonable limits, such other persons who may come to the business enterprise requesting change, information, or other services; and

2. operate on a cash basis.

D. Relationships with Building Officials. Section 523.D.1 - 2 provide guidance in maintaining a productive relationship with building officials.

1. The licensed manager must comply with all reasonable requests concerning the operation of a business enterprise that may be made by officials of the building in which the enterprise is located, provided that such requests do not conflict with the agreement and the rules and regulations issued by the SLA as contained herein.

2. If differences should arise between the licensed manager and building management, the licensed manager shall bring the matter to the immediate attention of the business consultant for appropriate action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:535 (March 1999).

### §525. Grounds for Suspension or Termination of a License

A. A BEP license may be suspended or terminated for:

1. failure to open the assigned business enterprise as stated in the permit/contract with the grantor agency, without prior proper approval from the SLA (abandonment of business enterprise);

2. defrauding any agency of the government (including the SLA) or any supplier or failure to pay monies due including taxes, fees, or assessments to any governmental entity or supplier;

3. failure to file required financial and other records with the SLA or to preserve them for a specified time and failure to comply/cooperate with audits conducted by the SLA or other State or Federal agencies;

4. failure to maintain the required insurance coverage;

5. the business enterprise is not being operated in accordance with the rules and regulations, terms and

conditions of the permit with the grantor agency, or the terms and conditions of the business enterprise manager's agreement;

6. intentional abuse, neglect, unauthorized use or removal of the business enterprise equipment; or failure to properly maintain the equipment in a clean and operating manner within the scope of the licensed manager's level of maintenance authorization;

7. substance abuse (alcoholic beverages, illegal drugs, etc.) while operating the business enterprise; or other substance abuse that interferes with the operation of a business enterprise;

8. operation of a business enterprise in such a way that the SLA's investment is obviously endangered;

9. an attempt by a licensed manager to derive personal benefit from privileged information acquired through participation in the Business Enterprises Program;

10. failure to comply with all Federal and State laws prohibiting discrimination and failure to assure services without distinction on the basis of race, gender, color, national origin, religion, age, political affiliation, or disability;

11. determination by the SLA that the licensed manager no longer has the necessary skills and abilities for effectively managing a business enterprise;

12. use of the business enterprise to conduct unlawful activities;

13. failure to personally operate and manage the business enterprise in accordance with the manager's agreement; or

14. does not actively operate a business enterprise in the Business Enterprises Program for 5 years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:535 (March 1999).

### §527. The Elected Committee of Managers

A. Authority for Establishing an Elected Committee of Licensed Managers is found in Section 107-B1 of Chapter 6A of Title 20 U.S., commonly referred to as the Randolph-Sheppard Act.

B. Section 527.B.1 - 2 provide guidance in approaching the degree of participation by the ECM.

1. Active participation means a process of good faith negotiations involving the ECM and the SLA. The committee must be given the opportunity to have meaningful input into the decision-making process in the formulation of program policies which affect licensed managers.

2. The SLA is charged with the ultimate responsibility for the administration and operation of all aspects of the Business Enterprises Program.

C. Functions of the Elected Committee of Licensed Managers include:

1. actively participate with the SLA in the major administrative, policy, and program development decisions affecting the overall administration of the Business Enterprises Program;

2. to receive and transmit to the SLA grievances at the request of licensed managers and to serve as advocates for such managers in connection with such grievances;

3. to actively participate with the SLA in the development and administration of a State system for the transfer and promotion of licensed managers;

4. to participate with the SLA in developing training and retraining programs for licensed managers;

5. to sponsor, with the assistance of the SLA, meetings and instructional conferences for licensed managers;

6. to participate in setting out the method of determining the charge for each of the purposes listed below:

a. maintenance and replacement of equipment;

b. the purchase of new equipment;

c. management services;

d. assuring a fair minimum of return to licensed managers; or

e. the establishment and maintenance of retirement or pension funds, health insurance contributions, and provisions for paid sick leave and vacation time, it is so determined by a majority vote of licensed managers, after the SLA provides to each licensed manager information on all matters relevant to such proposed purposes. [34 CFR 395.9(b) and (c)]

D. The ECM will be composed of licensed managers in the program based on such factors as geography and business enterprise type with a goal of providing for proportional representation of licensed managers on Federal property and other property. There will be an executive committee with their duties and terms of office specified in the by-laws of the ECM.

E. The SLA shall provide for the biennial election of a State committee of licensed managers which shall be fully representative of all licensed managers in the State Program. (34 CFR 395.14)

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 25:536 (March 1999).

# Chapter 9. Council on the Purchase of Products and Services of Severely Disabled Persons

### §901. General Rules

A. The purpose of this program is to further the State of Louisiana/DSS policy of encouraging and assisting citizens with disabilities to achieve maximum personal independence by engaging in useful and productive activities, to furnish products and services to the state, and to reduce the need for institutionalization. This program will provide job opportunities for persons with severe disabilities thereby reducing their need for financial and other forms of assistance from government.

B. The Program for the Purchase of Products and Services of Severely Disabled Persons is designed to facilitate R.S. 39:1595.4, Act 109 of 1984 which provides that: every governmental body shall give preference in its purchasing practice to goods manufactured and services performed by individuals with severe handicaps in state operated and state supported sheltered workshops, and Act 291 of 1986, R.S. 39:1594(I) which allows for competitive sealed bidding.

Exemption. Purchases of goods manufactured by or services performed by individuals with severe handicaps in state-operated or state-supported workshops as defined in R.S. 39:1595.4 shall be exempt from the provisions of this Section.

C. The Council on the Purchase of Products and Services of Severely Disabled Persons, established by the secretary of the Department of Social Services (DSS), shall be responsible for the implementation, policies, supervision, and monitoring of the program.

D. All suitable products or services approved by the council in accordance with applicable specifications by or for any state agency shall be procured from such nonprofit workshops where such products or services are available within the period specified at the fair market price unless otherwise excluded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 16:976 (November 1990).

### §903. Definitions

*Council*—when used in these rules shall refer to the Louisiana D.S.S. Council on the Purchase of Products and Services of Severely Disabled Persons.

*Direct Labor*—all labor involved in the manufacture of goods or the performance of services except for supervision, instruction, administration, and shipping.

*Goods Manufactured and Services Performed by Severely Handicapped Individuals*—goods and services for which not less than 75 percent of the man-hours of direct labor required for manufacture or performance is provided by severely disabled individuals.

Qualified Nonprofit Agency of the Severely Handicapped—an agency that:

1. is incorporated under the Louisiana Nonprofit Corporation Law and operated in the interests of severely disabled individuals, and the income of which does not inure in whole or part to the benefit of any shareholder or other private individual, and

2. complies with any applicable occupational health and safety standards provided by the statutes or regulations of this state or of the United States.

*Severely Disabled Individuals*—individuals with a physical, mental, or substance abuse disability which constitutes a substantial obstacle to their employment and is of such a nature as to prevent an individual from engaging in normal competitive employment.

*Sheltered Workshop*—a facility designed to provide gainful employment for severely disabled individuals who cannot be absorbed into the competitive labor market or to provide interim employment for such individuals when employment opportunities for them in the competitive labor market do not exist.

*State-Operated Sheltered Workshop*—a sheltered workshop staffed by state agency personnel.

*State-Supported Sheltered Workshop*—a sheltered workshop funded in whole or part by the state and staffed by personnel from a qualified nonprofit agency for the severely disabled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 16:976 (November 1990).

### §905. Organization of the Council

A. The council will be composed of no more than nine members to be known as the Council on the Purchase of Products and Services of Severely Disabled Persons, including three state agency members and up to six appointed members. The state agency members shall be the director of State Purchasing of the Division of Administration; and the assistant secretary of the Office of Human Services, Department of Health and Hospitals; and the director of Louisiana Rehabilitation Services or their designees. The six appointed members shall be recommended by the Council on the Purchase of Products and Services of Severely Disabled Persons and approved by the secretary of the Department of Social Services. A chairman shall be recommended by the council to the secretary of the Department of Social Services for appointment.

B. Reimbursement for necessary expenses actually incurred in the performance of services in connection with

the work of the council will be made as authorized by the secretary of D.S.S.

C. The act of a majority of the members present at a meeting at which a quorum is present shall be the act of the council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 16:976 (November 1990).

**§907. Duties and Responsibilities of the Council**

A. The duties and responsibilities of the council are:

1. to coordinate and facilitate the carrying of R.S. 39:1595.4;

2. to certify eligibility of programs for participation;

3. to suspend and reinstate a workshop;

4. to designate and contract with a central nonprofit agency to assist the council in performing its functions;

5. to act on recommendations of the central nonprofit agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 16:976 (November 1990).

**§909. Certification of Eligibility of Participating Workshops**

A. The council shall certify each workshop making application for participating in the Program for the Purchase of Products and Services of the Severely Disabled based on the criteria contained in Act 109 LA RS, 1984.

1. The applicant meets the necessary definition of a sheltered workshop as specified in Act 109 LA RS, 1984.

2. The applicant meets the necessary definition of a qualified nonprofit agency for the severely handicapped as specified in Act 109 LA RS, 1984, only if qualified nonprofit status is a requirement that the program must have obtained to function legally as a sheltered workshop under federal and/or state statutory requirements.

3. The applicant conforms to the requirement for "Goods manufactured and services performed by severely handicapped individuals" Section 1. Act 109 LA RS, 1984.

4. The applicant has demonstrated to the council's satisfaction that it is capable of providing goods and services for sale to the state that conform to the criteria for same, as established by the rules pursuant to Act 109 LA RS, 1984.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 16:976 (November 1990).

**§911. Central Nonprofit Agency**

A. The council may designate and contract with a central nonprofit agency to assist workshops in submitting applications for eligibility, suspending and reinstating, workshops, facilitating the distribution of orders among qualified workshops, in controlling quality control, and in assisting the council in carrying out its responsibilities. The central nonprofit agency may also assist workshops in training, contract negotiations and procurement, costing, cash advancements against billing, no interest loans, credit checks and collections, public relations, consultations, product development, market research, networking, industry referrals, production, management, contract administration, liaison with government, and other duties as specified by the council. Payment, if any, for such assistance shall be by agreement with the individual workshop.

B. The council shall establish rates for marketing services to be charged the workshop by the central nonprofit agency.

C. Purchase orders shall be issued by the appropriate purchasing agency for suitable products and services directly to a workshop with copies to a central nonprofit agency, but no vouchers from that agency will be approved for payment by the purchasing agency. The purchasing agency will consult with the central nonprofit agency on questions of allocation before issuing a purchase order to any workshop. Provision may also be made where permissible, to issue purchase orders directly to the central nonprofit agency which will in turn make payment to the workshop.

D. If such assistance is authorized in the designation, the council may instruct the central nonprofit agency to assist it in carrying out certain specified council responsibilities.

E. The central nonprofit agency will submit annually a detailed written report of its program and budget to the council. This report shall include:

1. the number of disabled persons according to their type of disability who are employed in workshops participating the program for the purchase of products and services;

2. the amount of annual wages paid to persons participating in the program;

3. a summary of the sale of products offered by the workshops;

4. a list of products and services offered by the workshops;

5. the geographic distribution of the workshops; and

6. other information specified by the council for its determination of rates for marketing services to be charged the workshops by the central nonprofit agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 16:976 (November 1990).

**§913. Suspension and Reinstatement of a Workshop**

A. The council, after notice and a hearing may suspend a workshop from its right to receive purchase orders from this program for suitable products and services under any or all of the following circumstances:

1. failure of delivered products and services to meet or exceed specification;

2. failure to deliver ordered products and services as required in the specifications.

B. The council may reinstate a workshop after a suspension only if the council makes an affirmative finding on each of the following:

1. that the workshop has reimbursed the state for damages suffered by reason of any of the failures giving rise to suspension;

2. that the workshop has made the necessary corrections to avoid these failures in the future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 16:976 (November 1990).

**§915. Value Added**

A workshop may not act merely as a receiving and shipping facility, except under circumstances as approved by the council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 16:976 (November 1990).

**§917. Inspections**

The appropriate purchasing agency, at its option, may monitor workshop manufacturing activities for compliance with specifications under existing contracts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 16:976 (November 1990).

**§919. Records**

A. The records of the council and of any nonprofit agency participating in this program which pertain to state purchases of the products and services of severely disabled persons, shall be made available upon request to the inspection of representatives of the State Auditor, Office of the Inspector General, the Governor's Budget Office, or the Legislative Budget Board on the assurance that the information will be safeguarded, used only for the purpose for which provided, and not released to unauthorized persons.

B. A request for information from other records of the council which identifies severely disabled persons as a state agency client or former client will be forwarded to the appropriate agency for release.

C. DSS is the depository for all records concerning the council's operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 16:976 (November 1990).

**§921. Exceptions**

A. Exceptions from the operation of the mandatory provisions of these rules may be made in any case where under the rules of the state purchasing agency, the product or service so produced or provided does not meet the reasonable requirements of the office, department, institution, or agency.

B. No office, department, institution, or agency may evade the intent of these rules by slight variations from standards adopted by the appropriate purchasing agency, when the products or services produced or provided by persons with severe disabilities, in accordance with established standards, are reasonably adapted to the actual needs of the office, department, institution, or agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 16:976 (November 1990).

# Chapter 11. Personal Care Attendant Policy

**§1101. Mission**

A. General Statement. The Legislature of Louisiana recognizes the right of people with severe physical disabilities to lead independent and productive lives. With this in mind, this same legislature created the Personal Care Assistance (PCA) Program in order that required PCA services to assist in the tasks of daily living be provided. The mission of the PCA Program is to provide for an orderly sequence of services related to the PCA needs of those persons with severe disabilities who are determined eligible for the program.

B. Program Administration. The Department of Social Services, through the Louisiana Rehabilitation Services (LRS) office, is responsible for the administration of the PCA Program.

C. The Manual's Function. This manual sets forth the policies of the LRS in carrying out this mission.

D. Exceptions. The secretary or secretary's designee shall have the sole responsibility for any exceptions to this policy manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), repromulgated LR 19:345 (November 1993).

**§1103. Enabling Legislation**

Act 653, Chapter 27-A of Title 46 of the Louisiana Revised Statutes of 1950, comprising R.S. 46:2116 through 2116.5 relative to PCA services for individuals with severe disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1437 (November 1993).

**§1105. Definitions**

A. The following terms shall have the meaning ascribed to them in Act 653, unless the context clearly requires otherwise:

*CIL*—a Center for Independent Living is an agency designated and funded by LRS to provide independent living services to individuals with severe disabilities according to the Title VII Part B guidelines.

*Department*—the Department of Social Services.

*Evaluation Team*—the individuals who determine the eligibility of individuals with severe disabilities for PCA services pursuant to Act 653 and shall be composed of the following three individuals:

a. a representative from LRS with experience in providing services to persons with individuals physical disabilities;

b. an occupational therapist with experience in providing services to individuals with severe physical disabilities;

c. a representative from the Office of Eligibility Determinations, Long Term Care Program.

*Individual with Severe Disabilities*—an individual with loss of sensory or motor functions interfering with activities of daily living to the extent that the person requires assistance with nonmedical personal care needs, domestic or cleaning needs, dressing and undressing, moving into and out of bed, ambulation, related services including but not limited to meal preparation, laundry, and grocery shopping, and other similar activities of daily living.

*Personal Care Assistance Services*—services which are required by individuals with severe disabilities between 18 and 55 years of age to achieve greater independence and which include but are not limited to services related to:

a. routine bodily functions, such as bowel or bladder care;

b. dressing;

c. preparation and consumption of food;

d. housecleaning and laundry;

e. moving in and out of bed;

f. routine bathing;

g. ambulation;

h. any other similar activity of daily living.

*Qualified Provider*—must be a Center for Independent Living as defined by the Rehabilitation Act of 1973, as amended in 1978 and 1992.

*Secretary*—the secretary of the Department of Social Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991).

**§1107. General Requirements**

A. Nondiscrimination

1. All programs administered by and all services provided by the agency shall be rendered on a non-discrimination basis without regard to race, creed, color, sex, religion, age, national origin, or status with regard to public assistance in compliance with all appropriate state and federal laws and regulations.

2. Discrimination Prohibited. Title VI of the Civil Rights Act of 1964 states: "No person in the United States shall, on the grounds of race, color or national origin, be excluded from participation, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance."

B. Compliance with State Laws, Federal Laws and Regulations, and Departmental Policies and Procedures. Staff involved in the PCA Program shall comply with all state and federal laws, including Department of Social Services, LRS policies and procedures and civil service rules and regulations as applicable.

C. Cost-Effective Service Provision. PCA services shall be provided in a cost effective manner without supplanting any existing services for attendant care.

D. Case File Documentation. All providers of PCA services must maintain a case file for each PCA applicant/client. The case file shall contain documentation to support the decision to provide, deny, or amend services. Documentation of the amounts and dates of each service provided to support all claims for reimbursement must also be included in the case file.

E. Expeditious Service Delivery. All referrals, applications and provision of services will be handled expeditiously and equitably.

F. Civil Rights and Equal Employment Opportunities with Regard to Employees of Affected Programs. Title VI of the Civil Rights Act of 1964 as amended prohibits job discrimination because of age, race, color, sex or national origin, and Title V of the Rehabilitation Act of 1973 prohibits job discrimination because of a handicapping

condition. The provisions if these Acts apply to services and programs administered by the Louisiana Rehabilitation Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), repromulgated LR 19:437 (November 1993).

**§1109. Confidentiality**

A. General Statement. All personal information in the possession of the agency/provider shall be used only for purposes directly connected with the administration of the program.

B. Notification to Clients. Individuals asked to supply information for the agency/provider shall be informed of the agency/provider's need to collect confidential information and the policies governing its use, release, and access including:

1. the confidentiality of information provided in the case file must contain documentation that the individual has been advised of the confidentiality of information pertinent to his case;

2. the principal purpose for which the agency/provider intends to use or release the requested data;

3. whether they may refuse or are legally required to supply the requested data;

4. any known consequence arising from not providing requested information;

5. the identity of other agencies to which information is routinely released.

C. Release of Confidential Information. The case file must contain documentation concerning any information released with the individual's written consent where needed. Informed written consent is not needed for the release of personal records in the following conditions. The client must be advised of these conditions:

1. public assistance agencies or programs from which the client has requested services or to which he is being referred for services under the circumstances for which his consent may be presumed;

2. doctors, hospitals, clinics, rehabilitation centers and independent living centers providing services to clients as authorized by the agency/provider;

3. confidential information will be released to an organization or an individual engaged in research, audit, or evaluation only for purposes directly connected with the administration of the state program (including research for the development of new knowledge or techniques which would be useful in the administration of the program) and if the organization or individual furnishes satisfactory assurance that the information will be used only for the purpose for which it is provided; that it will not be released to persons not connected with the study under consideration; and that the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the state agency without written consent of such person and the state agency. Information for research, audit, or evaluation will be issued only on the approval of the secretary or secretary's designee.

D. Client Access to Data. When requested in writing by the client or his representative, clients or applicants have the right to see and obtain in a timely manner copies of any information that the agency/provider maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the client's physical or mental health;

2. medical, psychological, or other information which may be harmful to the client. *Note:* such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the client's representative, or a physician or a licensed or certified psychologist;

3. when personal information has been obtained from another agency or organization, it may be released only by or under the conditions established by the other agency or organization.

E. Informed Consent. Informed consent means that the client has signed an authorization to release information, which:

1. is in language that the individual understands;

2. is dated;

3. is specific as to the nature of the information which may be released;

4. specifically designates the parties to whom the information may be released;

5. is specific as to the purpose(s) for which the released information may be used;

6. is specific as to the expiration date of the informed consent, which must not exceed one year.

F. Court Orders, Warrants and Subpoenas. Subpoenaed case records and depositions are to be handled in the following manner:

1. with the written informed consent of the client, after compliance with the waiver requirements (signed informed consent of client or guardian), the court will be given full cooperation.

2. without the written informed consent of the client, when an employee is subpoenaed for a deposition or receives any other request for information regarding a client, he should:

a. honor the subpoena;

b. take subpoenaed case record or case material to the place of the hearing at the time and date specified on the subpoena;

c. if called upon to testify or to present the case record information, inform the court of the following:

i. that the case record information or testimony is confidential information;

ii. the subpoenaed case record information is in agency/provider's possession;

iii. agency/provider personnel will testify and/or release the case record information only if ordered to do so by the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1437 (November 1993).

**§1111. Applicant and Client Appeal Rights**

A. Any individual who is aggrieved by a decision of the Louisiana Rehabilitation Services Agency with regard to a request for provision of PCA services may appeal said decision within 10 days from the date of the letter informing them of the denial decision taken on the PCA application or reduction in services by requesting an informal administrative review. This request must be made in writing to the director of Louisiana Rehabilitation Services, Post Office Box 94371, Baton Rouge, LA 70804-9371. The request can be prepared personally or with any other person of the individual's choice. The findings of the informal administrative review must be determined within 45 working days from the receipt of the request.

B. If the client is dissatisfied with the finding of this informal administrative review, within 10 days from the date of the informal administrative review decision, the request for a fair hearing must be made in writing to the director of Louisiana Rehabilitation Services, P.O. Box 94371, Baton Rouge, LA 70804-9371. The request can be prepared personally or with aid of any other person of the individual's choice. The fair hearing must be held within 45 working days of receipt of the request.

C. The impartial hearing officer will make a decision based on the provisions of the Louisiana Rehabilitation Services PCA Policy Manual and the law and provide to the applicant or client, or if appropriate, the representative, and to the director of LRS a full written report of the findings and grounds for the decision within 30 working days of the completion of the hearing.

D. PCA benefits shall remain unchanged during the appeal process until a final decision is reached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1438 (November 1993).

**§1113. Eligibility and Ineligibility Decisions**

A. Nondis crimination and Nonexclusion. The evaluation team must apply eligibility requirements without regard to sex, race, creed, color or national origin of the individual applying for service.

B. Eligibility Criteria set forth in R.S. 46:2116.2 and as state below are:

1. is an individual with severe disabilities;

2. is between the ages of 18 and 55. An individual who begins to receive services between the ages of 18 and 55 shall continue to receive services after age 55, provided that all other eligibility requirements are met;

3. has applied for Title XIX;

4. needs not less than 14 nor more than 35 hours a week of personal assistance services from this program or needs an attendant at night which services are necessary to prevent or remove the client from inappropriate placement in an institutional setting or enhance the client's employability;

5. written documentation from the treating physician must clearly state that the client is medically stable and is capable of directing the activities of a PCA attendant;

6. must have received skilled nursing facility (SNF) or intermediate care facility (ICF) services for at least 90 days during the 12 months prior to receiving PCA services. If the client has not received the required SNF or ICF services he/she must show evidence of needing personal care assistant services as listed in '1105, Definitions, on a permanent basis in order to achieve activities of daily living.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993).

**§1115. Economic Need**

A. The economic need status of each client for PCA services shall be considered in the determination of eligibility for services. Verification for income must be provided by the client.

B. The total monthly income of the PCA applicant and/or spouse shall be considered in determining the amount of available income to the client and in the determination of eligibility for services. Current income received on a regular basis must be considered regardless of its source. Sources can include wages, fees, commissions, retainers, rent, interest, dividends, payment for service in cash or kind, benefits by way of pensions, compensation from insurance payments, fellowships, contributions from family or other individuals (including "free" room and board), public assistance payments, alimony and/or payments by roomers/boarders.

C. In determining the amount of available income to the client and/or spouse, the following are exceptions to be used:

1. court-ordered child support and/or alimony (use exact amount);

2. medical expenses, *not* covered by insurance, which are paid on a monthly basis, as documented by medical statements and/or canceled checks. Examples: monthly payment for purchase/repair of durable medical equipment, surgical supplies, etc. Examples of monthly expenses are:

a. purchase of durable medical equipment;

b. repairs to durable medical equipment;

c. medication (not covered by insurance);

d. surgical supplies (not covered by insurance);

e. physician's bills (not covered by insurance);

f. hospitalizations (not covered by insurance);

g. unreimbursed PCA services paid by client;

h. payments withheld from wages for:

i. taxes;

ii. retirement;

iii. medical and/or life insurance premiums;

i. other unusual obligations. Expenditure is to be documented as to total amount owed, for what, and amount of monthly payment.

D. Economic need will be applied using income minus allowed expenses cited above, if applicable. Available monthly income to be considered shall be based on the following schedule:

| | | | |
|---|---|---|---|
| 1 Person | $ 0 | - | $1000 |
| 2 Persons | $1001 | - | $1500 |
| 3 Persons | $1501 | - | $2000 |
| 4 Persons | $2001 | - | $2500 |
| 5 Persons | $2501 | - | $3000 |

E. Surplus. The monthly surplus shown through the economic needs test must be applied toward the cost of services each month for the duration of planned services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991).

**§1117. Care Plan for PCA Services**

A. A care plan is to be developed to determine the level of care needed. A care plan shall be initiated and updated every six months or more often, if indicated. The care plan and all updated plans shall be contained in the client's case record. The initial plan should be included with the application sent to the PCA evaluation team.

B. Client Participation. The client is to participate fully in the development of the care plan, including all changes and amendments. Client's signature is required for the care plan and any amendments.

C. Minimum content of the care plan:

1. identification of specific services to be delivered;

2. the frequency of service(s);

3. the beginning date and service review dates;

4. total number of hours per week per service.

D. Amendment of the Care Plan. When the client or provider identifies a need for a change to the original care plan, the client and the provider shall amend the plan to address the client's need(s). The amended plan shall be submitted to the PCA Evaluation Team if such changes are markedly different fromthe original plan.

E. Biannual Care Plan Review. Every six months a review of the care plan is mandatory and shall be reflected on the amended plan. A review can be done before six months, if indicated. In all cases, the client shall be involved in any review and/or changes to his/her care plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:439 (November 1993).

**§1119. Financial**

A. Prior Authorization. If an emergency situation exists where PCA services need to begin prior to the provider's receipt of written acceptance of client's application for PCA services, documentation in the client's case record must be given confirming verification of the emergency and the authorization received from the LRS program manager that PCA services can begin. The program manager must also follow up such authorization in writing within five days to the appropriate provider following such verbal authorization.

B. The recipient of PCA services will invoice provider bi-monthly in arrears for PCA services purchased and include copies of time sheets as verification of the services being provided. The invoice shall contain the following:

1. dates of services;

2. number of hours of PCA services per day;

3. rate of pay;

4. signature of PCA;

5. signature of PCA client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993).

**§1121. Qualified Provider Responsibilities**

A. Shall maintain a registry of persons interested in providing PCA services.

B. Shall maintain a waiting list of individuals wanting to apply for PCA services.

C. Shall take a pre-application on clients maintained on the waiting list in order to determine priority order as funds become available for serving additional clients. The provider shall utilize the pre-application form to determine the priority order to serve individuals on the waiting list.

D. When funds are available, the provider shall send the pre-application and application on the prioritized individual to the LRS program manager for determination or redetermination of eligibility.

E. Shall maintain a case record on each recipient or a pre-application. The case record must include, as a minimum, the pre-application form and, if applicable, a copy of the ineligibility letter, care plan and all amendments to this plan, documentation from medical and/or other appropriate sources, and any other additional material which is a necessary part of the application and/or reconsideration for PCA services.

F. A reconsideration is required to be completed biannually on all PCA recipients. If there is a change in circumstances, a revised care plan must also accompany the reconsideration which are to be sent to the LRS program manager.

G. Shall make available personal care management training to all individuals receiving services under this program.

H. Shall advise the applicant/client of the evaluation team's decision within five working days from receipt of the team's decision if found eligible for PCA services.

I. Shall maintain copies of the time sheets on the attendants in order to document the number of days and hours worked. Payments for the time worked shall be paid within a reasonable period of time after the invoice is received by the provider.

J. Shall investigate information brought to the provider's attention which causes question of continued eligibility. This could include such items as falsification of time sheets, misuse of PCA funds, and any other violation of the policy stated herein. This information shall be provided to the LRS program manager for disposition. If the information provided is substantiated, this shall be reason for denial of services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:439 (November 1993).

**§1123. Evaluation Team Responsibilities**

A. Shall determine the eligibility of the person with a severe disability for PCA services, and

B. Re-evaluate the PCA recipient through biannual reviews of the reconsideration and care plan if applicable to determine the continued need for PCA services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:440 (November 1993).

**§1125. Responsibilities of the Agency in the Eligibility Decision**

A. The agency shall follow the recommendations of the evaluation team; or

B. Shall give notice to the person within 20 days of receipt of the recommendations of the evaluation team of its reasons for not following the team's recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1440 (November 1993).

**§1127. Violations and Penalties**

A. The following violations may result in termination of services or other penalties:

1. no longer meets eligibility criteria as outlined in Section VII.B of the Personal Care Attendant Manual;

2. falsified information (time sheets, signed PCA's name to check and/or time sheets, etc.);

3. misuse of PCA funds (failure to pay attendant amount due, use of PCA reimbursement for services unrelated to approved PCA Care Plan, etc.);

4. does not file/pay required taxes;

5. unable to be contacted and/or whereabouts unknown for 30 days or more;

6. any other reason which is contradictory to policy and procedures for the PCA program.

B. Definition

*Fraud***C**use of trickery of deceit to receive benefits. For fraud to exist, one of the following must exist:

a. misrepresentation of fact affecting eligibility, amount of benefits, and/or use of PCA funds. The burden of proof that fraud exists is on the CIL;

b. the misrepresentation must have been made knowingly and with deceitful intent.

*Intentional Program Violation***C**made a false or misleading statement, or misrepresented, concealed or withheld fact; or committed any act that constitutes a violation of the PCA program or PCA policy and/or procedures. Also, a client who repeatedly fails to comply with the policies and/or procedures of the PCA program would be in violation of this Section.

C. Warning. The CILs can issue a "warning" to clients who do not willingfully or knowingly commit a violation, such as failure to pay taxes. The CIL would determine if the violation was intentional. If not, written notice of the violation and action to correct the violation is to be given to the client. A copy of the notice to the client is to be placed

in the client's file. Repeat of the violation would be brought to the attention of the PCA evaluation team for consideration of termination.

D. Recoupment

1. In lieu of termination, the PCA evaluation team can demand that a dient can refund the PCA program for all benefits received because of a violation as listed above.

2. If the PCA evaluation team rules that the client must repay the amount in question, the CIL will determine the repayment schedule. Client can remain eligible as long as recoupment is made and a willingness to comply with policies and procedures set forth in the PCA program are shown. The CIL shall maintain close monitoring of client until such time the CIL determines client is complying with the policies and procedures.

3. Recoupment is required from fraudulently received benefits as well, however, the client will not be eligible for further services.

E. Termination. The PCA evaluation team may terminate an individual who violates the policy and/or procedures of the PCA program. The determination to terminate will be based on the severity of the violation(s) and/or continued violation(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Louisiana Rehabilitation Services, LR 17:611 (November, 1993), amended LR 21:1251 (November 1995).

### §1129. Procedures for Termination and/or Appeals

A. When a client is terminated from this program:

1. a copy of the termination letter to the client which explains the reason and right to an appeal will be sent to the CIL;

2. the CIL should provide the client with a copy of the PCA Policy Manual;

3. if the client appeals, a letter will be sent from LRS PCA program manager to the CIL which will indicate that the client will continue to receive services until the appeals process is completed;

4. upon receipt of the letter concerning the appeal, the CIL is to contact and advise the client of the continuation of services throughout the appeals process;

5. the CIL will be contacted when the appeal process is completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Louisiana Rehabilitation Services, LR 17:611 (November, 1993), amended LR 21:1252 (November 1995).

## Chapter 13. State Sign Language Interpreter Certification Standards

### §1301. Certification Standards

A. Certification Statement. All individuals who use the title Sign Language Interpreter must be certified by and registered with the Louisiana Commission for the Deaf.

1. Recognition of situational specialties will require action of the appropriate subcommittees of the Interpreter Certification Board.

a. Qualifications for certification:

i. be at least 18 years of age; and

ii. possess a high school diploma/GED; and

iii. submit completed application forms and required documentation; and

iv. pass appropriate examination(s); and

v. possess no felony or misdemeanor convictions for offenses which directly relate to the duties and responsibilities of an interpreter/transliterator; and

vi. abide by state laws, rules and regulations; and

vii. abide by the Registry of Interpreters for the Deaf, Inc. (RID) Code of Ethics; and

b. in addition, applicants shall agree to:

i. sign a release of information form allowing LCD to gain examination results from examining agency(ies); and

ii. pay membership and related application fees to contracted examining agency(ies).

c. Application. An individual interested in certification must contact the Louisiana Commission for the Deaf (LCD).

B. Examinations. The State Interpreter/Transliterator Certification Program includes the following:

1. Screening. To begin the certification process, the candidate must successfully pass a screening instrument which will be determined by the ICB as approved by the LCD.

2. Written/Verbal/Performance Components. Upon successful completion of screening, the candidate will be eligible for the written examination(s), which will assess knowledge of the general field of deafness including deaf culture; the profession of interpreting/transliterating for persons who are deaf, deaf-blind or hard of hearing and application of the RID Code of Ethics.

a. Upon successful completion of the written examination(s), the candidate will be eligible for the verbal and/or performance examination(s).

b. The verbal examination(s) may include but not be limited to assessing knowledge of the general field of deafness including deaf culture, the profession of

interpreting/transliterating and application of the RID Code of Ethics.

c. The performance examination will assess the candidate's ability to interpret and/or transliterate in the appropriate mode(s).

3. Examination Instrument. The Interpreter Certification Board will determine the examination(s) to be administered as approved by the Louisiana Commission for the Deaf.

4. Examination Dates. Administration of examination(s) will be scheduled by the Interpreter Certification Board.

5. Notification of Examination(s) Results. Individual candidates will be notified of results. Results of any part of the examination(s) will be maintained in confidential files, however, successful completion of the interpreting/ transliterating certification program will be a matter of public record.

6. Re-Application. Persons who do not successfully pass any section(s) of the examination may apply for re-examination of said section(s) after a waiting period as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual.

7. No Shows. Failure to appear at an examination site at the appropriate time, for other than just cause as determined by ICB, will result in being placed at the bottom of the waiting list for the next available date.

C. Certificates

1. Certificate Criteria. The candidate:

a. must successfully complete the written examination(s); and

b. must successfully complete the verbal and/or performance examination(s);

c. must successfully complete a performance examination;

d. will be awarded various levels as outlined in the procedure manual of the Interpreter Certification Board.

2. Certificate Duration/Maintenance. Certificates shall be continuous as long as the individual interpreter meets certificate maintenance requirements as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual. Certificate maintenance requirements shall include but not be limited to professional growth and development, and field work.

a. Certificates shall be terminated when maintenance requirements are not met, but may be restored as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual.

3. Recognition. Recognition of interpreting/ transliterating certificates shall be approved as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual.

4. Appeals. Individuals who disagree with the examination procedure and/or decisions of the Interpreter Certification Board have the right of appeal as outlined in the State Interpreter/Transliterator Certification Program Procedures Manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2351-2354 and 46:2361-2374.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 17:389 (April 1991), amended LR 18:968 (September 1992), LR 19:304 (March 1993), LR 19:905 (July 1993), LR 21:838 (August 1995), LR 26:1489 (July 2000).

# Chapter 15. Independent Living Policy Manual

### §1501. Agency Profile

A. Mission. To assist persons with disabilities in their desire to achieve independence in their home or community and/or to assist a responsible individual to obtain or maintain employment by providing independent living services and by working cooperatively with other community services.

B. Program Administration. Louisiana Rehabilitation Services, hereafter referred to as LRS, will secure appropriate resources and support in administering the various programs under the responsibility of the agency. These programs include, but are not limited to:

1. Title VII, Chapter 1, Part B Independent Living Program;

2. Title VII, Chapter 2, IL Services for Older Individuals Who are Blind.

C. The Manual's Function. This manual sets forth the policies of LRS in carrying out the agency's mission, specifically as this mission relates to the Independent Living Program.

D. Exceptions. The director or designee shall have the sole responsibility for any exceptions to this policy manual.

E. Nondiscrimination. All programs administered by and all services provided by LRS shall be rendered on a nondiscrimination basis without regard to handicap, race, creed, color, sex, religion, age, national origin, duration of residence in Louisiana, or status with regard to public assistance in compliance with all appropriate state and federal laws and regulations to include Title VI of the Civil Rights Act of 1964.

F. Compliance with state laws, federal laws and Regulations, and Departmental Policies and Procedures. Staff shall comply with all state and federal laws, agency and civil service rules and regulations, Title VII of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA) of 1990 (Public Law 101-336).

G. Cost-Effective Service Provision. Services shall be provided in a cost-effective manner.

H. Records. A record must be maintained for each applicant/client and shall contain documentation to support a

counselor's decision regarding eligibility, and subsequent decisions to provide, deny, or amend services.

I. Data Collection. Staff shall ensure the provision of client and financial data necessary for the operation of the agency's information and financial system as well as the Blind Registry.

J. Expeditious Service Delivery. All referrals, applications and provision of services will be handled expeditiously and equitably.

K. Client Assistance Program. All programs, including centers for independent living, community rehabilitation programs, and projects that provide services to individuals with disabilities under the Rehabilitation Act Amendments of 1998 shall advise such individuals, or the parents, family members, guardians, advocates, or authorized representatives of the individuals, of the availability and purposes of the client assistance program, including information on means of seeking assistance under such program.

L. Equal Employment Opportunities

1. LRS will comply with Title VII of the Civil Rights Act of 1964 as amended, and Title V of the Rehabilitation Act of 1973 as amended.

2. In addition, all community rehabilitation programs (including centers for independent living) supported by grants or funding from the Rehabilitation Services Administration, must be operated in compliance with Title VII of the Civil Rights Act of 1964 as amended, and Title V of the Rehabilitation Act of 1973 as amended.

M. Affirmative Action Plan. LRS will take affirmative action to ensure that the following will be implemented at all levels of administration: recruit, hire, place, train and promote in all job classifications without regard to non-merit factors such as race, color, age, religion, sex, national origin, disability or veteran status, except where sex is a bonafide occupational qualification.

N. Comprehensive System of Personnel Development. LRS will provide a comprehensive system of personnel development in accordance with the Rehabilitation Act Amendments of 1998.

O. Applicant/Client. For purposes of representation, the term applicant/client refers to an individual who has applied for independent living services or in certain cases, a parent, or family member, or guardian, an advocate, or any other authorized representative of the individual.

P. Cooperative Agreements. LRS will use services provided under cooperative agreements as comparable services and benefits.

Q. Services to American Indians with Disabilities. LRS will provide independent living services to American Indians with disabilities to the same extent that these services are provided to other individuals with disabilities which will include, as appropriate, services traditionally available to Indian tribes on reservations.

R. Misrepresentation, Fraud, Collusion, or Criminal Conduct

1. Individuals who obtain access to the services provided by LRS through means of misrepresentation, fraud, collusion, or criminal conduct shall be held responsible for the return of funds expended by LRS on the individual's behalf. Further, such actions shall result in the closure of the individual's independent living case record. Failure on the individual's part to make reparation of funds to the agency may result in legal action being taken by LRS.

2. In cases in which LRS is in possession of clear evidence of misrepresentation, fraud, collusion, or criminal conduct on the part of the individual for the purpose of obtaining services for which the individual would not otherwise be eligible, the individual's case will be referred to the Department of Social Services, Bureau of General Counsel for consultation and/or recommendation regarding judicial action. If Department of Social Services, Bureau of General Counsel determines, through reviewing case data, that the individual has obtained services through misrepresentation, fraud, collusion, or criminal conduct, a certified letter will be directed to the individual by the LRS Counselor demanding payment in full of funds which have been expended by the agency on the individual's behalf. The failure of the individual to comply with the demand for reparation may result in legal action being taken on behalf of LRS.

S. Informed Choice. LRS shall provide information and support services to assist applicants and eligible individuals in exercising informed choice throughout the independent living process, consistent with the following:

1. to inform each applicant and eligible individual through appropriate modes of communication;

2. to assist applicants and eligible individuals in exercising informed choice in decisions related to the provision of assessment services;

3. to maintain flexible procurement guidelines and methods that facilitate the provision of services; and

4. to provide or assist eligible individuals in acquiring information necessary to develop the components of the Independent Living Plan.

T. Construction. Nothing in this Policy Manual shall be construed to create an entitlement to any independent living service.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S. 36:477 (c), R.S. 46:331-335, R.S. 39:1595.3 and R.S. 39:1594 (I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:673 (June 1994).

**§1503. Enabling Legislation**

A. All FITAP overpayments shall be subject to collection either by recoupment or recovery with the exception of:

1. inadvertent household error claims of $250 or less; and

2. administrative error claims.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2323 (October 2000), LR 27:428 (March 2001).

**§1507. Applicant/Client Appeal Rights**

A. Administrative Review

1. The administrative review is a process which may be used by applicants/clients (or as appropriate the applicant's/client's representative) for a timely resolution of disagreements. However, this process may not be used as a means to delay a fair hearing conducted by an Impartial Hearing Officer. The administrative review will allow the applicant/client an opportunity for a face to face meeting in which a thorough discussion with the regional manager or designee can take place regarding the issue(s) of concern. All administrative reviews render a final decision expeditiously after receipt of the initial written request from the applicant/client.

2. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Independent Living Plan, and upon reduction, suspension, or cessation of independent living services. Services will continue during the administrative review appeal process unless the services being provided under the current Independent Living Plan were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

3. In order to insure that an applicant/client is afforded the option of availing themselves of the opportunity to appeal agency decisions impacting their independent living case, adequate notification by the counselor must include:

a. the agency's decision;

b. the basis for, and effective date of the decision;

c. the specific means for appealing the decision;

d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation;

e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and

f. the name and address of the regional manager who should be contacted in order to schedule an administrative review or fair hearing.

Note: All administrative reviews must be conducted in a manner which ensures that the proceedings are understood by the applicant/client.

B. Fair Hearing

1. The fair hearing is the final level of appeal within Louisiana Rehabilitation Services. Subsequent to a decision being reached as a result of the fair hearing, any further pursuit of the issue by the applicant/client (or, as appropriate, the applicant's/client's representative) must be through the public court system.

2. The fair hearing process may be requested by applicants/clients to appeal disputed findings of an administrative review or as a direct avenue of appeal bypassing the administrative review option. The fair hearing will be conducted by an Impartial Hearing Officer.

3. An Impartial Hearing Officer shall be selected on a random basis to hear a particular case by agreement between the Louisiana Rehabilitation Services Director and the applicant/client. This officer shall be selected from among a pool of qualified persons identified jointly by Louisiana Rehabilitation Services and members of the Louisiana Rehabilitation Council. The Impartial Hearing Officer shall provide the decision reached in writing to the applicant/client and to Louisiana Rehabilitation Services as expeditiously as possible.

4. All applicants/clients must be provided adequate notification of appeal rights at the time of application, development of the Independent Living Plan, and upon reduction, suspension, or cessation of independent living services.

5. Services will continue during the fair hearing process unless the services being provided under the current Independent Living Plan were obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the client.

6. In order to insure that the applicant/client is afforded the option of availing themselves the opportunity to pursue a fair hearing, adequate notification by the counselor and/or Regional Manager must include:

a. the agency's decision (inclusive of an administrative review, if conducted);

b. the basis for, and effective date of, that decision;

c. the specific means for appealing the decision;

d. the applicant's/client's right to submit additional evidence and information, including the client's right to representation at the fair hearing;

e. advise the applicant/client of the Client Assistance Program and how they can access the program, including the telephone number; and

f. the means through which a fair hearing may be requested, including the name and address of the regional manager.

Note: All fair hearings must be conducted in a manner which ensures that the proceedings are understood by the applicant/client.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2324 (October 2000).

**§1509. Eligibility and Ineligibility**

A. Criteria for Eligibility. To be eligible for independent living services, an applicant must be an individual:

1. with a severe physical or mental impairment which substantially limits the individual's ability to function independently in the family or community, and

2. for whom the delivery of independent living services will improve their ability to function, continue functioning, or move towards functioning independently in the family or community.

B. Determinations by Officials of Other Agencies. To the extent appropriate and consistent with the requirements of this section, LRS will use determinations made by officials of other agencies regarding whether an individual satisfies one or more factors relating to whether an individual is an individual who has a physical or mental impairment which for such individual substantially limits their ability to function independently.

C. Compliance Provisions.

1. Nondiscrimination and Nonexclusion

a. Eligibility decisions must be made without regard to sex, race, age, creed, color or national origin of the individual applying for services.

b. No group of individuals is excluded or found ineligible solely on the basis of type of disability.

c. No upper or lower age limit is established which will, in and of itself, result in a finding of ineligibility for any individual with a disability who otherwise meets the basic eligibility requirements specified in this manual.

d. Louisiana Rehabilitation Services does not impose a residence requirement. Illegal aliens, however, cannot be served.

D. Determination of Ineligibility

1. A determination of ineligibility for independent living services is made:

a. when LRS is in possession of clear and convincing evidence that an individual has no physical and/or mental impairment which substantially limits an individual's ability to function independently in the family or community; or

b. when LRS is in possession of clear and convincing evidence that an individual with a disability does not require independent living services to function independently in the family or community; or

c. when LRS is in possession of clear and convincing evidence that an individual is incapable of benefitting from independent living services, in terms of becoming more independent in the home and/or community.

2. If an individual who applies for independent living services is determined (based on clear and convincing evidence) not eligible for services, or if an eligible individual receiving services under an Independent Living Plan (ILP) is determined to be no longer eligible for services, LRS shall:

a. provide an opportunity for full consultation with the individual or, as appropriate, the individual's representative; and

b. inform the individual, or as appropriate, the individual's representative, in writing of:

i. the reason(s) for the ineligibility determination; and

ii. an explanation of the means by which the individual may express and seek a remedy for any dissatisfaction with the determination, including the procedures for review by an Impartial Hearing Officer and the availability of services from the Client Assistance Program; and

iii. a referral to any other agencies or programs from whom the individual may be eligible to receive services, including a center for independent living or other components of the statewide workforce investment system.

3. LRS shall review the applicant's ineligibility at least once within 12 months after the ineligibility determination has been made and whenever is has been determined the applicant's status has materially changed. This review need not be conducted in situations where the applicant has refused the review, the applicant is no longer present in the state, or the applicant's whereabouts are unknown.

E. Use of Existing Information. To the maximum extent appropriate and consistent with the requirement of this Section, for purposes of determining eligibility of an individual for independent living services, LRS shall use information that is existing and current (as of the current functioning of the individual), including information available from the individual, other agencies and programs.

F. Eligibility for Nursing Home Residents. Eligibility is met if independent living services rendered enables the individual to permanently leave the nursing home or to participate in other ongoing community or family activities which will enhance the quality of the individual's life outside of the facility.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2325 (October 2000).

**§1511. Information and Referral Services**

A. Purpose. The purpose of an expanded system of information and referral is as follows:

1. To ensure that individuals with disabilities receive accurate independent living information to assist such individuals in functioning more independently in the family and/or community; and

2. To ensure that such individuals, as appropriate, are referred to other federal and state programs, including centers for independent living.

B. Services

1. Information

a. As appropriate, to the extent that such services are not purchased by LRS, LRS will provide the following informational services:

i. individualized guidance and counseling;

ii. assistance in locating appropriate support groups;

iii. assistance in securing appropriate community services;

iv. assistance in securing reasonable accommodations.

2. Referral

a. As appropriate, LRS will make a referral to the appropriate federal or state program, including centers for independent living, that is best suited to address the specific needs of the individual with a disability.

b. Information provided by LRS to the individual will contain:

i. a copy of the notice of the referral by LRS to the other agency carrying out the program; and

ii. information identifying a specific point of contact within the agency carrying out the program; and

iii. information and advice regarding the most suitable services to assist the individual to function more independently in the family and/or community.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2326 (October 2000).

**§1513. Comprehensive Assessment**

A. Purpose

1. To make a determination of the independent living needs of the individual with a disability.

2. To make a determination of the objectives, nature, and scope of independent living services required for development of the Independent Living Plan (ILP) of an eligible individual.

B. Scope. To the extent additional data is necessary, LRS shall conduct a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, of the eligible individual.

C. Additional Considerations

1. The comprehensive assessment is limited to information necessary to identify the independent living needs of the eligible individual and to develop the Independent Living Plan (ILP).

2. LRS will use as a primary source of information, to the maximum extent possible and appropriate, existing information obtained for the purpose of determining eligibility.

3. LRS will use, to the maximum extent possible and appropriate, information provided by the individual and/or the individual's family.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2327 (October 2000).

**§1515. Independent Living Plan (ILP)**

A. Purpose. The purpose of the Independent Living Plan, hereafter referred to as ILP, and all subsequent amendments is to assure that each individual determined eligible for independent living services shall have a formal plan, jointly developed and agreed upon by the individual (or as appropriate the individual's family member or other authorized representative) and the LRS counselor.

B. Client Choice and Client Participation. The format of the ILP, to the maximum extent possible, will be in the language or mode of communication understood by the individual. Each individual's ILP will assure that the plan was developed in a manner empowering the individual with the ability to make an informed choice relative to the selection of an independent living goal, intermediate objectives, services and service providers. The client (or where appropriate, the client's parent, guardian or other representative) must sign the ILP and must receive a copy of the original ILP and amendments.

C. Mandatory Components of an ILP. An ILP shall, at a minimum, contain components consisting of the following:

1. the specific independent living goals chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual;

2. the specific independent living services (provided in the most integrated setting appropriate for the service and consistent with the individual's informed choice) needed to achieve the independent living goal;

3. the approximate dates for the initiation of each service and the anticipated date for the completion of each service;

4. a time frame for the achievement of the independent living goal;

5. the entity chosen to provide the independent living service and the methods to procure such services;

6. the criteria to evaluate the individual's progress towards achievement of the independent living goal;

7. the terms and conditions of the ILP, including, as appropriate, information describing:

a. responsibilities of LRS;

b. responsibilities of the eligible individual including those responsibilities the individual will assume in relation to the independent living goal;

c. if applicable, the participation of the eligible individual in paying for the costs of the planned services;

d. responsibility of the eligible individual with regard to applying for and securing comparable benefits;

e. if applicable, the responsibilities of any other entities as the result of arrangements made pursuant to comparable services and benefits;

8. the rights and remedies available to the individual through the Appeals Process and information regarding the availability of the Client Assistance Program.

D. Review and Amendment

1. The ILP shall be reviewed as least annually by a qualified LRS counselor and the eligible individual, or as appropriate, the individual's representative; and

2. Amended, as necessary, by the individual, or as appropriate, the individual's representative, in collaboration with a LRS counselor.

E. ILP Document

1. An ILP shall be a written document prepared on forms provided by LRS.

2. An ILP shall be developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an independent living goal, the specific independent living services to be provided under the ILP, the entity that will provide the independent living services, and the methods used to procure the services consistent with Informed Choice as defined in LRS in Chapter 1, Section S of this policy manual.

3. An ILP shall be agreed to, and signed by, such individual or, as appropriate, the individual's representative; and approved and signed by a qualified counselor employed by LRS.

4. A copy of the ILP shall be provided to the individual or, as appropriate, the individual's representative, in writing; and if appropriate, in the native language or mode of communication of the individual.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2327 (October 2000).

**§1517. Financial**

A. Comparable Services and Similar Benefits

1. Determination of Availability

a. Prior to providing any independent living service to an eligible individual, LRS will determine whether comparable services and benefits are available under any other program (including programs carried out under Title I, Rehabilitation Act Amendments of 1998) unless such a determination would interrupt or delay;

i. the provision of such service to any individual at extreme medical risk, with such risk documented by an appropriate Licensed Medical Professional. "Extreme Medical Risk" is defined as a risk of substantially increasing functional impairment or risk of death if services are not provided expeditiously.

2. Exceptions to Use of Comparable Services and Benefits

a. The following independent living services can be provided without making a determination of the availability of comparable services and benefits:

i. services provided through LRS' Information and Referral System;

ii. assessment for determining eligibility and independent living needs, including if appropriate, assessment by personnel skilled in rehabilitation technology;

iii. counseling and guidance (provided by LRS Counselor), including information and support services to assist an individual in exercising informed choice;

iv. referral and other services needed to secure necessary services from other agencies through cooperative agreements, if such services are not available from LRS.

B. Individual's Participation in the Cost of IL Services.

1. LRS will consider, through budgetary analysis of assets, income, monthly liabilities, and comparable services and similar benefits, the financial need of eligible individuals for purposes of determining the extent of the individual's participation in the costs of certain independent living services.

a. Neither a financial needs test, nor a budgetary analysis, is applied and no financial participation is required as a condition for furnishing the following independent living services:

i. assessment for determining eligibility;

ii. assessment for determining independent living needs;

iii. counseling and guidance (provided by LRS Counselor), including information and support services to assist an individual in exercising informed choice;

iv. referral and other services to secure needed services from other agencies through cooperative agreements, if such services are not available from LRS;

v. rehabilitation technology assessments.

b. A financial needs test will be applied through budgetary analysis to determine the ability of the individual to financially contribute to the cost of the following independent living services:

i. counseling services, including psychological, psychotherapeutic and related services;

ii. services related to housing or shelter, including appropriate accommodations to, and modifications of, any space used to serve, or occupied by, individuals with disabilities;

iii. rehabilitation technology;

iv. personal assistance services, including attendant care;

v. consumer information programs on rehabilitation and independent living services;

vi. supported living;

vii. transportation;

viii. physical rehabilitation;

ix. therapeutic treatment;

x. provision of needed prostheses and other appliances and devices;

xi. individual and group social and recreational services;

xii. appropriate preventive services to decrease the need of individuals receiving IL services for similar services in the future;

xiii. any other IL service available under the State Plan for Independent Living which are appropriate to the IL needs of the eligible individual.

c. An individual's status for the budget analysis will be determined as follows:

i. the agency will perform the budget analysis on the basis of the resources of both the client and the spouse if the client is married;

ii. the agency will perform the budget analysis on the basis of the resources of the family unit for all single clients living in the family home as a family member. Temporary absences from the home, such as for vacations, school, or illness, count as time lived in the home.

iii. the agency will perform the budget analysis on an individual who has returned to the family unit on the basis of the resources of only that individual if the following conditions are met:

(a). the individual's disability has precluded their obtaining or maintaining employment; and

(b). the individual has a documented history of self-sufficiency that includes providing over one-half the costs of maintaining a residence for at least one year prior to their return to the family unit; and

(c). the individual's parent(s), legal guardian, or other head of household provides documentation that indicates such person(s) do not claim the individual as an exemption for federal and/or state income tax purposes.

d. Family unit is defined as the client and the client's parents or the client and any significant other(s), such as aunts, uncles, friends, legal guardians, etc., who are living in the household and are providing support for the maintenance of the household in which the client lives. Adult siblings of the client can be excluded as a member of the family unit for income reporting; but, must also be excluded from the family unit in the determination of allowable monthly liabilities.

e. Individuals who do not provide LRS with necessary financial information to perform the budget analysis will be eligible only for those independent living services that are not conditioned upon an analysis to determine the extent of the individual's participation in the costs of such services.

f. Simultaneously with the comprehensive assessment, at the annual review of the ILP, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis for each client requiring independent living services as listed above. The amount of client participation in the cost of their independent living program will be based upon the most recent budget analysis at the time the relevant ILP or amendment is developed.

2. State and Departmental Purchasing Procedures. All applicable state, departmental and agency purchasing policies and procedures must be followed.

a. LRS does not purchase vehicles or real estate. LRS does not renovate or remodel housing.

b. Fee Schedule. Services and rates of payment must be authorized in accordance with LRS' Medical Fee Schedule and LRS' Technical Assistance and Guidance Manual, Section 500 which lists approved service providers.

c. Approval of Service Providers

i. Any service provider approved by the agency must agree not to make any additional charge to or accept any additional payment from the client or client's family for services authorized by the agency.

ii. Relatives of independent living clients will not be approved as a paid service provider unless such individuals are professionally and occupationally engaged in the delivery of such services by offering their services to the general public on a regular and consistent basis.

d. Prior Written Authorization and Encumbrance

i. Either before or at the same time as the initiation or delivery of goods or services, the agency must be in possession of the proper authorizing document.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2327 (October 2000).

**§1519. Independent Living Services**

A. Independent Living Services are time limited services described in an ILP necessary to assist an individual with a disability in their desire to achieve independence in their home/community and are consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including:

1. an assessment for determining eligibility and independent living needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

2. counseling and guidance, including information and support services to assist an individual in exercising informed choice;

3. referral and other services to secure needed services from other agencies through cooperative agreements developed, if such services are not available from LRS;

4. independent living skills training;

5. psychological, psychotherapeutic, and related services;

6. services related to housing or shelter, including services related to community group living, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

7. rehabilitation technology;

8. mobility training;

9. services and training for individuals with cognitive and sensory disabilities, impairments, including life skills training;

10. interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet state license law;

11. personal assistance services, including attendant care and the training of personnel providing such services;

12. activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

13. education and training necessary for living in a community and participating in community activities;

14. supported living;

15. transportation, including referral and assistance for such transportation and training in the use of public transportation vehicles and systems;

16. physical rehabilitation;

17. therapeutic treatment;

18. provision of needed prostheses and other appliances and devices;

19. individual and group social and recreational services;

20. training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

21. services for children;

22. appropriate preventive services to decrease the need of individuals assisted through the independent living program for similar services in the future;

23. community awareness programs to enhance the understanding and integration into society of individuals with disabilities;

24. consumer information programs on rehabilitation and independent living services, especially for minorities and other individuals with disabilities who have traditionally been unserved or underserved; and

25. such other services as may be necessary and not inconsistent with the objectives listed in the State Plan for Independent Living.

B. Scope of Services for Diagnosis and Treatment of Physical and Mental Impairments

1. LRS will not provide ongoing medical rehabilitation treatment services.

2. LRS will not provide experimental services or supplies.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2329 (October 2000).

**§1521. Conditions for Case Closure**

A. Options for Closure. An individual's case can be closed at any time in the independent living process when it has been determined that:

1. the individual is not available for services;

2. the individual is ineligible;

3. appropriate planned services, expenditures and reports have been completed, and additional services are either unnecessary or inappropriate.

B. Closure as Successfully Achieving IL Goal. In order to close a case as successfully achieving an IL goal, the case record must include:

1. documentation the client was determined eligible for services;

2. documentation the client was provided an assessment of IL potential;

3. documentation appropriate services were provided in accordance with the ILP;

4. documentation showing the basis on which the individual has met the goal of living more independently;

5. documentation the client has been informed the case is being closed as having successfully achieved IL goal.

C. Content of the ILP for Case Closure as Ineligible. The ILP and amendments relating to the case closure in cases of ineligibility based on the decision that the individual is not capable of achieving an independent living goal, must document with clear and convincing evidence that the individual is incapable of benefitting from independent living services. Such decisions shall be reviewed and reassessed twelve months from the date of closure.

AUTHORITY NOTE: Promulgated in accordance with the Rehabilitation Act of 1973, as amended, R.S. 49:664 Section 6B, R.S.36:477(c), R.S. 46:331-335, R.S. 1595.3 and R.S. 39:1594(I).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 26:2329 (October 2000).

# Chapter 17. Grant Policy

### §1701. Grant Program Policy Manual

LRS Grant Policy Manual, fiscal year 1995, provides uniform requirements for the Administration of Louisiana Rehabilitation Services (LRS) grants and the principles for determining costs applicable to activities assisted by LRS grants for grants to institutions of higher education, hospitals, nonprofit organizations, and state and local government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:583 (June 1995).

### §1703. Federal Financial Participation

A. The total federal financial participation in expenditures for construction of facilities for community rehabilitation program purposes for each year can not exceed 10 percent of LRS's allotment of Section 110 Funds for that year.

B. For each fiscal year, LRS' expenditures for rehabilitation services under the state plan, other than for construction and establishment of community rehabilitation program facilities, will at least equal the expenditures for vocational rehabilitation services for the second prior fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:583 (June 1995).

### §1705. Community Rehabilitation Program

A. A community rehabilitation program is a program that provides directly or facilitates the provision of one or more of the following vocational rehabilitation services to individuals with disabilities to enable those individuals to maximize their opportunities for employment, including career advancement:

1. medical, psychiatric, psychological, social, and vocational services that are provided under one management;

2. testing, fitting, or training in the use of prosthetic and orthotic devices;

3. recreational therapy;

4. physical and occupational therapy;

5. speech, language, and hearing therapy;

6. psychiatric, psychological, and social services, including positive behavior management;

7. assessment for determining eligibility and vocational rehabilitation needs;

8. rehabilitation technology;

9. job development, placement, and retention services;

10. evaluation or control of specific disabilities;

11. orientation and mobility services for individuals who are blind;

12. extended employment;

13. psychosocial rehabilitation services;

14. supported employment services and extended services;

15. services to family members if necessary to the vocational rehabilitation of the individual;

16. personal assistance services; and

17. services similar to the services described in paragraphs 1-16 of this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:584 (June 1995).

### §1707. General Provisions

LRS will accept solicited and unsolicited grant proposals from institutions of higher education, hospitals, nonprofit organizations, and state and local governments for the establishment of Community Rehabilitation Program Facilities and construction of Community Rehabilitation Program Facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:584 (June 1995).

**§1709. Establishment of Community Rehabilitation Program Facilities**

A. Federal financial participation is available in expenditures for the establishment, development, or improvement of a public or nonprofit community rehabilitation program for the following types of expenditures:

1. The establishment, development, or improvement of a public or nonprofit community rehabilitation program.

2. Staffing, if necessary to establish, develop, or improve a community rehabilitation program for a maximum period of four years, with federal financial participation available at the applicable matching rate for the following levels of staffing costs:

a. 100 percent of staffing costs for the first year;

b. 75 percent of staffing costs the second year;

c. 60 percent of staffing costs the third year; and

d. 45 percent of staffing costs the fourth year.

3. Other start-up expenditures related to the establishment, development, or improvement of a community rehabilitation program that are necessary to make the program functional or increase its effectiveness not including operating expenditures of the program.

B. Federal financial participation is available in expenditures for the establishment of a facility for community rehabilitation program purposes for the following types of expenditures:

1. the acquisition of an existing building, and if necessary the land in connection with the acquisition, if the building has been completed in all respects for at least one year prior to the date of acquisition and the federal share of the cost of the acquisition is not more than $300,000;

2. the remodeling or alteration of an existing building, provided the estimated cost of remodeling or alteration does not exceed the appraised value of the existing building;

3. the expansion of an existing building, provided that:

a. the existing building is complete in all respects;

b. the total size in square footage of the expanded building, notwithstanding the number of expansions, is not greater than twice the size of the existing building;

c. the expansion is joined structurally to the existing building and does not constitute a separate building; and

d. the costs of the expansion do not exceed the appraised value of the existing building;

4. architect's fees, site survey, and soil investigation, if necessary in connection with the acquisition, remodeling, alteration, or expansion of an existing building; or

5. the acquisition of fixed or movable equipment, including the costs of installation of the equipment, if necessary to establish, develop, or improve a community rehabilitation program.

C. Funds made available to a private nonprofit agency for the establishment of a rehabilitation facility must be expended by that agency in accordance with procedures and standards equivalent to those of the state unit in making direct expenditures for similar purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:584 (June 1995).

**§1711. Construction of Community Rehabilitation Program Facilities**

A. Federal financial participation is available in expenditures for the construction of a facility for community rehabilitation program purposes for the following types of expenditures:

1. acquisition of land in connection with the construction of a new building for a community rehabilitation program;

2. acquisition of existing buildings;

3. remodeling, alteration or renovation of existing buildings;

4. construction of new buildings and expansion of existing buildings;

5. architect's fees, site surveys, and soil investigation, if necessary, in connection with the construction project;

6. initial fixed or movable equipment of any new, newly acquired, newly expanded, or newly renovated buildings that are to be utilized for community rehabilitation program purposes; and

7. other direct expenditures appropriate to the construction project, except costs of off-site improvements.

B. The amount of federal financial participation in the construction of a rehabilitation facility may not be more than 50 percent of the total cost of the project.

C. Funds made available to a private nonprofit agency for the construction of a rehabilitation facility must be expended by that agency in accordance with procedures and standards equivalent to those of the state unit in making direct expenditures for similar purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:584 (June 1995).

**§1713. Financial Administration**

A. Standards for Financial Management Systems. A grantee must expand and account for grant funds in accordance with state laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures must be sufficient to:

1. Permit preparation of reports required by LRS and the statutes authorizing the grant.

2. Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

3. The financial management system of the grantee must also meet the following standards:

a. Financial Reporting. Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant.

b. Accounting Records. Grantees must maintain records which adequately identify the source and application of funds provided for financially-assisted activities. These records must contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.

c. Internal Control. Effective control and accountability must be maintained for all grant cash, real and personal property, and other assets. Grantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

d. Budget Control. Actual expenditures or outlays must be compared with budgeted amounts for each grant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

e. Allowable Cost. Applicable OMB cost principles applicable state laws and regulations, agency program regulations, and the terms of grant agreement will be followed in determining the reasonableness, allowability, and allocability of costs.

f. Source Documentation. Accounting records must be supported by such source documentation as canceled checks, paid bills, payrolls, time and attendance records, contract and grant award documents, etc.

g. Cash Management. Procedures for minimizing the time elapsing between the transfer of funds from the state treasury and disbursement by grantees must be followed whenever advance payment procedures are used.

4. LRS may review the adequacy of the financial management system of any applicant for financial assistance as part of a pre-award review or at any time subsequent to award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:585 (June 1995).

**§1715. Payment Requirements**

A. If progress and/or completion of services are provided to the satisfaction of LRS, payments are to be made as specified in the contract agreement, stipulating rate or standard of payment, billing intervals, and invoicing provisions.

B. Withholding of Payments

1. Payments for proper charges incurred by grantees will not be withheld unless:

a. the grantee has failed to comply with reporting requirements or,

b. the grant is suspended.

2. Cash withheld for failure to comply with reporting requirements, but without suspension of the grant will be released to the grantee upon subsequent compliance. When a grant is suspended payment adjustments will be made in accordance with '1733.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Louisiana Rehabilitation Services, LR 21:585 (June 1995).

**§1717. Cost Principles**

A. Recipients shall adhere to applicable cost principles dependent on its organizational type. All project costs charged to this grant will be reasonable, necessary, allowable, and allocable according to the applicable cost principles.

Institutions of Higher EducationCOMB Circular A-21

*Hospitals*C34 CFR PART 74, Appendix E

Nonprofit OrganizationsCOMB Circular A-122

State, Local or Indian Tribal GovernmentCOMB Circular A-87

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:585 (June 1995).

**§1719. Cost Sharing or Matching**

A. Nonprofit Facilities. Cost sharing or matching means the grantees share of the costs of a grant-supported project or program. The grantee's match funds must be certified as nonfederal monies and will be required up-front in the form of a check payable to LRS. LRS will then reimburse 100 percent of the grant to the grantee.

1. Percentages of matching funds are as follows:

a. establishment grantC21.3 percent cash match is mandatory;

b. construction grantC50 percent cash match is mandatory.

B. Public Facilities. Cost sharing or matching means the grantees share of the costs of a grant-supported project or

program. The grantee's match funds must be certified as nonfederal monies and set-aside (dedicated) for the grant. Only cash expended after the grant's effective date and before the expiration date will be considered as grantee's match.

1. Percentages of matching funds are as follows:

a. establishment grant - 21.3 percent cash match is mandatory;

b. construction grant - 50 percent cash match is mandatory.

2. A cost sharing or matching requirement may not be met by costs borne by another federal grant. Costs financed by general program income shall not count towards satisfying a cost sharing or matching requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:586 (June 1995).

**§1721. Program Income**

Program income means gross income received by the grantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. During the grant period is the time between the effective date of the award and the ending date of the award. When authorized program income shall be retained by the recipient and used for costs which are in addition to the allowable costs of the project or program but which nevertheless further the objectives of the grant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:586 (June 1995).

**§1723. Property**

A. Title to real property and equipment acquired under a grant shall vest, upon acquisition, in the grantee.

1. Real Property. Land including land improvements, structures and appurtenances thereto, but excluding movable machinery and equipment.

a. The property shall be used for the originally authorized purpose as long as needed for that purpose. When no longer so needed, approval of the director of LRS may be requested to use the property for other purposes. Use for other purposes shall be limited to projects or programs serving LRS' clients.

b. When real property is no longer to be used for the originally authorized purpose, the disposition instructions of LRS shall be followed. Those instructions will provide for one of the following alternatives:

i. The property shall be sold and LRS shall be paid an amount computed by multiplying the federal share of the property times the proceeds from sale. Proper sales procedures shall be used that provide for competition to the extent practicable and result in the highest possible return.

ii. The recipient can retain title. If title is retained, LRS shall be paid an amount computed by multiplying the market value of the property by the federal share of the property.

iii. The recipient shall transfer the title to an eligible nonfederal party named by LRS.

The grantee shall be entitled to be paid an amount computed by multiplying the market value of the property by the nonfederal share of the property.

2. Equipment

a. Tangible personal property having an acquisition cost of $100 or more per unit.

b. Equipment shall be used by the recipient in the project or program for which it was acquired as long as needed. When no longer needed for the original project or program, the recipient shall use the equipment in other projects or programs currently or previously sponsored by LRS. When the recipient can no longer use the equipment it shall be made available to other recipients of LRS grants.

c. Disposition of Equipment. When equipment is no longer to be used in projects or programs sponsored by LRS, disposition of the equipment shall be made according to LRS property control procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:586 (June 1995).

**§1725. Equipment Management Requirements**

A. Requirements for managing equipment until transfer, replacement or disposition takes place shall, as a minimum meet the following requirements:

1. Property records shall be maintained accurately. (Retention and access requirements for these records are explained in ' 1725).

2. For each item of equipment, the records shall include:

a. a description of the equipment including manufacturer's model number, if any;

b. an identification number, such as the manufacturer's serial number;

c. identification of the grant under which the recipient acquired the equipment;

d. information needed to calculate the federal share of the equipment;

e. acquisition date and unit acquisition cost;

f. location, use, and condition of the equipment and the date the information was reported; and

g. all pertinent information on the ultimate transfer, replacement, or disposition of the equipment.

3. A physical inventory of equipment shall be taken and the results reconciled with the property records at least once a year to verify the existence, current utilization, and continued need for the equipment. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the differences.

4. A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of equipment. Any loss, damages, or theft of equipment shall be investigated and fully documented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:586 (June 1995).

**§1727. Procurement Standard**

A. Code of Conduct. The recipient shall maintain a code of standards of conduct that shall govern the performance of its officers, employees or agents engaged in the awarding and administration of contracts. The code or standards shall provide for disciplinary actions to be applied for violations of the code or standards by the recipient's officers, employees, or agents.

B. The recipient's officers, employees or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. This is not intended to preclude bona-fide institutional fund raising activities.

C. No employee, officer, or agent of a nongovernmental recipient shall participate in the selection, award, or administration of a contract where, to his or her knowledge, any of the following has a financial interest in that contract:

1. the employee, officer, or agent;

2. any member of his or her immediate family;

3. his or her partner;

4. an organization in which any of the above is an officer, director, or employee; and

5. a person or organization with whom any of the above individuals is negotiating or has any arrangement concerning prospective employment.

D. The recipient shall follow the Louisiana Procurement Code for all purchases comprised of R.S. 39:1551-1771.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:587 (June 1995).

**§1729. Monitoring**

A. Monitoring by Recipients. Recipients shall monitor the performance of grant supported activities. They shall review each program function, or activity to assure that adequate progress is being made towards achieving the goals of the grant. A performance report will be required quarterly to be submitted to LRS. A final performance report shall be due 30 days after the termination of the grant. The performance report shall conform to any instructions issued by LRS including:

1. a comparison of actual accomplishments to the goals established for the period;

2. the reasons for slippage if established goals were not met;

3. other pertinent information including, when appropriate, analysis and explanation of unexpectedly high overall or unit costs.

B. Performance Reports Under Construction Grants. Formal performance reports shall be required only if considered necessary by LRS.

C. Significant Developments Between Scheduled Reporting Dates. Between the scheduled performance reporting dates, events may occur which have significant impact upon the grant supported activity. In such cases, the recipient shall inform LRS as soon as the following types of conditions become known:

1. problems, delays or adverse conditions which will materially impair the ability to attain the objective of the award. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any assistance needed to resolve the situation;

2. favorable developments which enable meeting time schedules and goals sooner or at less cost than anticipated.

D. Site Visits. Site visits will be made as necessary by LRS to:

1. review program accomplishments and management control systems;

2. provide such technical assistance as may be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:587 (June 1995).

**§1731. Retention and Access Requirements for Records**

A. All financial and programmatic records, supporting documents, statistical records and other records of recipients under grants shall be retained for three years after expiration date of grant.

B. Equipment Records. The retention period for the equipment records starts from the date of the equipment disposition or replacement or transfer at the direction of LRS.

C. Records for Income Transactions after Grant. LRS' requirement concerning the disposition of program income will be satisfied by applying the income to costs incurred after expiration or termination of grant support for the activity giving rise to the income. The retention period for the records pertaining to the costs starts from the end of the recipients fiscal year in which the costs are incurred.

D. Access to Record. LRS, or any of their authorized representatives, shall have the right of access to any books, documents, papers, or other records of the grantee which are pertinent to the grant. This includes records of subgrantees, contractors and subcontractors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:587 (June 1995).

**§1733. Programmatic Changes and Budget Revisions**

A. When requesting a prior approval, grantees shall address their request to the responsible LRS grants officer. Approvals shall not be valid unless they are in writing and signed by the authorized LRS official. Within 30 days from the date of receipt of a request for approval, the approval authority shall review the request and notify the recipient of its decision.

B. Requirements for Prior Approval:

1. Changes to Project Scope or Objectives. The recipient shall obtain prior approval for any change to the scope or objectives of the approved project. (For construction projects any material change in approved space utilization or functional layout shall be considered a change in scope.)

2. Changes in Key People. The recipient of a grant shall obtain prior approval:

a. To continue the project during any continuous period of more than three months without the active direction of an approved project director.

b. To replace the project director (or any other persons named and expressly identified as key project people in the grant) or to permit any such people to devote substantially less effort to the project than was anticipated when the grant was awarded.

3. Other Programmatic Changes. The following shall require prior approval except to the extent explicitly included in the project plan as approved by LRS at the time of the award: Transferring to a third party by contracting or other means, the actual performance of the substantive programmatic work. The term "substantive programmatic work" means activities which are central to carrying out the purpose of the project, and not merely incidental.

C. Budget Revisions. The recipient of a grant having an approved budget shall obtain prior approval for any budget revision which will:

1. involve transfer of amounts budgeted for indirect costs to absorb increases in direct costs;

2. involve transfer of amounts previously budgeted between budget categories;

3. result in a need for the award of additional funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:588 (June 1995).

**§1735. Contract Provisions**

A. All contracts shall contain sufficient provisions to define a sound and complete agreement.

B. Contracts shall contain suitable provisions for termination by Louisiana Rehabilitation Services.

C. Audit Requirements. Circular A-128**C**Audits of State and Local Governments; Circular A-133**C**Audits of Institutions of Higher Education and other Nonprofit Institutions.

D. The grantee shall furnish LRS with three copies of an audit covering funds awarded under this contract. Such audit shall be conducted by an independent certified public accountant or the legislative auditor of the State of Louisiana. The audit shall be conducted with generally accepted auditing standards contained in the *Governmental Auditing Standards -Standard for Audit of Government Organizations Programs Activities and Functions*, issued by the United States General Accounting Office; P.L. 98-502 (Single Audit Act of 1984), the provisions of the Office of Management and Budget Circular A-128, *Audits of State and Local Government*. Nonprofit organizations should refer to the Office of Management and Budget Circular A-133. The audit shall be sent within 30 days after the completion of the audit, but no later than six months after the termination of the grant/contract.

E. Federal Assurances. Grants contracts for construction, alteration, and/or repair in excess of $2,000 must comply with the requirements of the Davis Bacon Act. (40 U.S.C. '276A-7)

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:588 (June 1995).

**§1737. Insurance**

Recipients shall observe LRS's requirements and practices with respect to bonding and insurance as specified in contract agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:588 (June 1995).

**§1739. Grant Closeout**

A. Each grant shall be closed out as promptly as is feasible after termination. In closing out grants, the following shall be observed:

1. Upon request LRS shall promptly pay the grantee for any allowable reimbursable costs not covered by previous payments.

2. The grantee shall immediately refund any unobligated balance of cash advance to the grantee.

3. The grantee shall submit within 30 days of the date of termination, an financial, performance, and other reports required by the terms of the grant.

B. The closeout of a grant does not affect the retention period for, or LRS's rights of access to grant records. If a grant is closed out without audit, LRS retains the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later. The closeout of a grant does not affect the grantee's responsibilities with respect to property under '1719, or with respect to any program income for which the grantee is still accountable under '1717.

C. Violation of Terms. When a grantee has materially failed to comply with the terms of a grant, LRS may suspend the grant in whole or in part. The notice of suspension will state the reasons for the suspension, any corrective action required of the grantee, and the effective date. Suspensions shall remain in effect until the grantee has taken corrective action satisfactory to LRS or given evidence satisfactory to LRS that such corrective action will be taken or until LRS terminates the grant. New obligations incurred by the grantee during the suspension period will not be allowed unless LRS expressly authorizes them in the notice of suspension or an amendment to it. Necessary and otherwise allowable costs which the grantee could not reasonably avoid during the suspension period will be allowed if they result from obligations properly incurred by the grantee before the effective date of the suspension and not in anticipation of suspension or termination.

D. Termination for Cause. LRS may terminate any grant in whole or in part, at any time before the date of expiration, whenever LRS determines that the grantee has materially failed to comply with the terms of the grant. LRS shall notify the grantee in writing of the determination and the reasons for the termination together with the effective date. (All notification for termination shall be given 30 days prior to the effective termination date.)

E. Termination on Other Grounds. Grants may also be terminated in whole or in part only as follows:

1. by LRS with the consent of the grantee, in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial terminations, the portion to be terminated, or

2. by the grantee, upon written notification to LRS, setting forth the reasons for such termination, the effective date, and in the case of partial terminations, the portion to be terminated.

F. Termination Settlements. When a grant is terminated, the grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. LRS will allow full credit to the grantee for the federal share of the noncancelable obligations properly incurred by the grantee prior to termination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.6 and R.S. 36.477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:588 (June 1995).

# Chapter 19. Traumatic Head and Spinal Cord Injury Trust Fund Program Policy

### §1901. Program Profile

A. Mission. To provide services in a flexible, individualized manner to Louisiana citizens who survive traumatic head or spinal cord injuries enabling them to return to a reasonable level of functioning and independent living in their communities.

B. Program Administration

1. The Department of Social Services, Louisiana Rehabilitation Services (LRS), shall be responsible for administration of the Louisiana Traumatic Head and Spinal Cord Injury Trust Fund.

2. The Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board will have the responsibility of promulgating rules and regulations; establishing priorities and criteria for disbursement of the fund; investigating the needs of head injured and spinal cord injured individuals to identify service gaps and needs; submitting an annual report with recommendations to the legislature and governor 60 days prior to each regular session of the legislature; and monitoring, evaluating, and reviewing the development and quality of services and programs funded through the trust fund.

C. Exceptions and Waivers. It shall be the sole responsibility of the Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board to make any exceptions to or waiver of this policy. Such exceptions/waiver will be made only on a case-by-case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:1252 (November 1995).

### §1903. Enabling Legislation

House Bill Number 1579, Act 654 of the 1993 Regular Session, Chapter 48, of Title 46 of the Revised Statutes 46:2631 through 2635 and R.S. 36:478(G).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:1252 (November 1995).

### §1905. Definitions

*Advisory Board*—Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board.

*Domiciled*—a resident of Louisiana, United States of America, with intent to permanently remain within the state.

*Medically Stable*—normal vital signs, no progression of deficits and/or no deterioration of physical/cognitive status. Does not require acute daily medical intervention.

*Medically Unstable*—fluctuating vital signs requiring acute medical attention. Progression of neurologic deficits and/or deterioration of medical condition.

*Spinal Cord Injury*—an insult to the spinal cord, not of a degenerative or congenital nature but caused by an external physical force resulting in paraparesis/plegia or quadraparesis/plegia.

*Traumatic Head Injury*—an insult to the head, affecting the brain, not of a degenerative or congenital nature, but caused by an external physical force that may produce a diminished or altered state of consciousness which results in an impairment of cognitive abilities or physical functioning.

*Trust Fund*—Traumatic Head and Spinal Cord Injury Trust Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:1253 (November 1995).

**§1907. General Requirements**

A. Nondiscrimination. All programs administered by and all services provided by the agency shall be rendered on a nondiscriminatory basis without regards to race, creed, color, age, religion, sex, national origin, disability, ethnicity, or status with regard to public assistance in compliance with all appropriate state and federal laws and regulations.

1. Civil Rights and Equal Employment Opportunities With Regard to Employees or Agencies Delivering Services. Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination because of race, color, or national origin; Title V of the Rehabilitation Act of 1973, as amended, and Title I of the Americans with Disabilities Act/P.L. 101-336 prohibit discrimination because of disabling condition. The provisions of these acts apply to services and programs administered by Louisiana Rehabilitation Services.

2. Compliance with State and Federal Laws and Regulations, and Departmental Policies and Procedures. All agencies and staff involved in the Traumatic Head and Spinal Cord Injury Trust Fund shall comply with all state and federal laws, including the Department of Social Services, Louisiana Rehabilitation Services policies and procedures as well as civil rights rules and regulations, as applicable.

B. Cost-Effective Service Provision. All services shall be provided in a cost effective manner.

C. Case Record Documentation. A case record will be maintained for each individual served. The record shall contain documentation to support the decision to provide, deny, or amend services. The case record will contain documentation of the amounts and dates of each service delivery.

1. All records must maintain service plans and progress notes.

2. All records must reflect individual identifications, and other pertinent medical histories.

D. Expeditious Service Provision. All referrals, individual applications and services shall be provided equitably and expeditiously.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:1253 (November 1995).

**§1909. Confidentiality**

A. General Statement. All files and information will be maintained in the strictest security and confidentiality, and the information will be used only for purposes directly connected to delivery of services.

B. Notification of Individuals. Individuals who are requested to supply information shall be informed of the need to collect confidential information and of the policy governing its use, dissemination and access including:

1. rights to confidentiality;

2. rationale to use or disclose requested information;

3. whether the individual may refuse, or is legally required to supply the requested information;

4. known consequences resulting from not providing the requested information.

C. Release of Confidential Information. All case records shall have documentation verifying informed consent for release of individual information with the following exceptions:

1. public assistance agencies or programs from which the individual has requested services or to which the individual is referred for services;

2. doctors, hospitals, rehabilitation centers, independent living centers, and/or supported living programs providing services to individuals as authorized by the trust fund.

D. Individual's Access to Information. All individuals shall have access to information in records, in an expeditious fashion, when requested in writing by the individual or his/her legal representative, with the exceptions of:

1. medical, psychological and other pertinent information, when the program manager or designee in prudent judgment documents in writing that disclosure to the individual would be detrimental to the individual's physical or psychological health;

NOTE: In cases when information is not disseminated to the individual, the information shall be released to the individual's representative, physician or licensed psychologist with assurance that it will not be released to the individual.

2. personal information that has been obtained from another vendor, agency, or organization. In these instances, it shall only be released as per direction from that agency or organization.

E. Informed Consent. Informed consent will be:

1. in the language that the individual understands;

2. dated;

3. specific as to the nature of the information which may be released;

4. specific as to the parties to whom the information may be released;

5. specific as to the purpose(s) in which the released information may be used;

6. specific as to the expiration date of the informed consent, which shall not exceed one year;

7. in the event of the individual's incapacity to understand and execute the informed consent, the individual's legal guardian, authorized representative, or the parent of a minor child, as applicable, may provide informed consent. (Documentation of guardianship or authorized representation required.)

F. Confidentiality - HIV Diagnosis. Each time confidential information is released on applicants or clients who have been diagnosed as HIV positive, a specific informed written consent form must be obtained.

G. Court Orders, Warrants, and Subpoenas. Subpoenaed case records and depositions will be handled in the following manner:

1. With the written informed consent of the individual, after compliance with the waiver of confidentiality requirements (signed informed consent of individual or guardian), the court will be given full cooperation.

2. Without the written informed consent of the individual, when an employee is subpoenaed for a deposition or receives any other request for information regarding an individual, he/she should:

a. inform the attorney, or other persons making the request of the confidentiality of the records;

b. inform in writing the program manager or designee of the request.

3. When an employee is subpoenaed by a court in a civil action to testify or to present case record information concerning an individual, the employee is to do the following:

a. contact the Department of Social Services, Bureau of General Counsel, Louisiana Rehabilitation Services staff attorney;

b. honor the subpoena;

c. take subpoenaed case record or case material to the place of the hearing at the time and date specified on the subpoena;

d. if called upon to testify or to present the case information, inform the court of the following:

i. that the case record information or testimony is confidential information;

ii. the subpoenaed case record information is in employee's possession;

iii. employee will testify and/or release the case record information only if ordered to do so by the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:1253 (November 1995).

**§1911. Individual Appeal Rights**

A. Administrative Review. The administrative review is a process which may be used by individuals for a timely resolution of disagreements pertaining to eligibility decisions or a denial of services. The administrative review will allow the individual an opportunity for a face to face meeting in which a thorough discussion with the program manager of the Traumatic Head and Spinal Cord Injury Trust Fund Program can take place regarding the issues of concern. Also in attendance at the administrative review will be a representative of the Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board. The individual will have the right to submit additional evidence and information and will have the right to bring representation to the administrative review.

1. All applicants must be provided adequate notification of appeal rights regarding eligibility and/or the provision or denial of services. Unless services being provided have been obtained through misrepresentation, fraud, collusion or criminal conduct on the part of the individual, such services will continue during the administrative review process.

2. The appeal request must be made in writing and post-marked or received in the office of the program manager of the trust fund program within 10 calendar days of receipt of notification of denial of eligibility or a denial of services. The administrative review must take place and a decision reached within 30 calendar days of the receipt of the individuals' request. The individual must be provided with a final written decision within that time period.

3. In order to insure that the individual is afforded the option of availing themselves of the opportunity to appeal decisions impacting their eligibility and/or receipt of services, adequate notification will include:

a. the decision being reached;

b. the basis for and effective date of the decision;

c. the specific means for appealing the decision;

d. the individual's right to submit additional evidence and information, including the individual's right to representation; and

e. the name and address of the program manager of the trust fund program. The program manager should be

contacted in order to schedule an administrative review or advisory board review.

B. Advisory Board Review. In the event that a disputed decision is not resolved through the administrative review process, the individual may request a review before the advisory board. The individual must make the request for an advisory board review in writing to the program manager of the trust fund program. This request must be post-marked or received in the office of the program manager within 10 calendar days of receipt of the program manager's decision following the administrative review. The advisory board review will take place at the time of the next regularly scheduled advisory board meeting following the receipt of the individual's written request, unless the program manager deems that it is necessary to address the situation sooner, in which case a special meeting of the advisory board could be called for the purpose of conducting the review. The individual will have the right to submit additional evidence and information and will have the right to bring representation to the advisory board review. A final written decision must be rendered within two weeks of the advisory board review.

1. The advisory board will make an impartial decision based on the provisions of the trust fund policy manual and the law and will provide to the applicant or individual, or if appropriate, the representative, a full written report of findings following the review.

2. In order to insure that the individual is afforded the option of availing themselves of the opportunity to appeal decisions impacting their eligibility and/or receipt of services, adequate notification will include:

a. the decision being reached;

b. the basis for and effective date of the decision;

c. the specific means for appealing the decision;

d. the individual's right to submit additional evidence and information, including the individual's right to representation; and

e. the name and address of the program manager of the trust fund program. The program manager should be contacted in order to schedule an advisory board review.

NOTE: The advisory board review will complete the individual's avenue of appeal within the trust fund program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:1254 (November 1995).

**§1913. Eligibility for Services**

A. In order for an individual to be determined eligible for services, the individual:

1. must meet the definition of spinal cord injury or traumatic brain injury as defined;

2. must be a resident of Louisiana, citizen of the United States, officially domiciled in the state of Louisiana at the time of injury and during the provision of services;

3. must have a reasonable expectation to achieve a predictable level of outcome to achieve improvement in quality of life and/or functional outcome;

4. must have exhausted all other governmental and private sources;

5. must provide proof of denial from other sources;

6. must be willing to accept services from an advisory-board-approved facility/program;

7. must be medically stable;

8. must complete and submit appropriate application for services.

B. Eligibility decisions must be made without regard to sex, race, creed, color, disability, or national origin of the individual applying for services unless authorized by law to comply with the purposes of Act 654 of the 1993 Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:1255 (November 1995).

**§1915. Ineligibility**

A. A determination of ineligibility for services is made when:

1. the individual is medically unstable; or

2. the disabling condition is other than a spinal cord injury or traumatic head injury as defined; or

3. any of the other eligibility criteria are not met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:1255 (November 1995).

**§1917. Fiscal**

A. Expenditures on behalf of any one individual shall not exceed $15,000 for any one 12-month period nor $50,000 in total expenditures.

B. All applicable state and departmental purchasing policies and procedures must be followed.

C. The trust fund will not purchase vehicles (automobiles, trucks, vans, etc.) or real estate.

D. Prior Written Authorization and Encumbrance. The proper authorizing document(s) must be written before the initiation or delivery of goods or services.

E. All monies that are collected for the Traumatic Head and Spinal Cord Injury Trust Fund Program are to be budgeted in the following fiscal year including but not

limited to all monies collected and not expended from any and all prior calendar years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:1255 (November 1995).

**§1919. Service Plan**

A. Following a determination of eligibility for services, an appropriate individualized assessment will be completed to determine the scope of services. After a case-by-case assessment of needs, a service plan will be developed, implemented, and updated as appropriate. The service plan will be individualized and outcome oriented. The service plan will include as a minimum:

1. specific services to be delivered or rendered;

2. frequency of the service(s)Cbeginning and ending dates;

3. costs of services;

4. service provider.

B. The case record will include all updates and amendments to the service plan.

C. The individual or authorized representative must give informed written consent to the service plan and all amendments. The service plan will be presented by means understandable to the individual served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:1255 (November 1995).

**§1921. Services**

A. Services are authorized, coordinated and provided for eligible individuals in accordance with each person's service plan.

B. Services may include, but are not limited to:

1. evaluations;

2. post-acute medical care rehabilitation;

3. therapies;

4. medication;

5. attendant care;

6. equipment necessary for activities of daily living;

7. other goods and services deemed appropriate and necessary.

C. The trust fund will not provide experimental treatment/procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:1255 (November 1995).

**§1923. Service Providers**

A. All service providers must be approved by the advisory board.

B. Service providers will furnish bimonthly progress notes to the program manager to substantiate the need for continued provision of such service(s).

C. In-state programs/facilities will be given priority for approval as service providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:1256 (November 1995).

**§1925. Conditions for Case Closure**

A. An individual's case can be closed at any time in the process when it has been determined that the individual:

1. has an unstable medical condition;

2. has shown consistent failure to cooperate with the service plan;

3. reaches the maximum $50,000 in total expenditures;

4. is eligible for other funding sources;

5. is not available for scheduled services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:1256 (November 1995).

**§1927. Limitation of Liability**

Members of the Louisiana Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board shall have limited liability as specified in R.S. 9:2792.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).
HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:1256 (November 1995).

# Chapter 21. Randolph-Sheppard Trust Fund Policy

**§2101. Program Profile**

A. Mission. To provide for the enhancement of programs for persons who are licensed and permitted through the Randolph-Sheppard Business Enterprise Program.

B. Program Administration

1. The administration of the fund shall be exercised by the Department of Social Services, Louisiana Rehabilitation Services.

2. The Blind Vendors Trust Fund Advisory Board will have the responsibility to advise and make recommendations to the agency for the promulgation of rules and regulations; monitor, evaluate and review the development and quality of services and programs funded through the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2641-2645.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:119 (February 1996).

**§2103. Enabling Legislation**

Senate Bill No. 676, Act 1285 of the 1995 Regular Session, Chapter 49 of Title 46 of the Revised Statutes 46:2641 through 2645.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2641-2645.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:119 (February 1996).

**§2105. Definitions**

*Agency*—Louisiana Rehabilitation Services within the Department of Social Services which licenses blind vendors.

*Blind Enterprise Program*—the services available to establish business enterprises and other similar programs for persons who are blind as provided in the Randolph-Sheppard Act.

*Blind Vendors*—those individuals who are classified under state and federal regulations as legally blind and who are licensed to and have a permit to operate vending facilities on state, federal, or other property.

*Board*—the Blind Vendors Trust Fund Advisory Board.

*Department*—the Department of Social Services.

*Director*—the director of Louisiana Rehabilitation Services.

*Fund*—the Blind Vendors Trust Fund.

*Randolph-Sheppard Act*—the federal law which enables the Blind Enterprise Program under the authority of 20 U.S.C. 107 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46 2641-2645.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:119 (February 1996).

**§2107. Blind Vendors Trust Fund Advisory Board**

A. The Blind Vendors Trust Fund Advisory Board shall be composed of nine members as follows:

1. the director of Louisiana Rehabilitation Services of the Department of Social Services or his or her designee;

2. eight members of the Louisiana Blind Vendors Elected Committee.

B. The board shall be domiciled in East Baton Rouge Parish.

C. The board shall meet at least once in each quarter of the fiscal year and as often as necessary thereafter as deemed by the chairman.

D. A majority of the individuals appointed to the board shall constitute a quorum.

E. Members shall serve without compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2641-2645.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:119 (February 1996).

**§2109. Blind Vendors Trust Fund Revenues**

A. The Blind Vendors Trust Fund shall consist of monies collected from certain vending machines located on state, federal, and other property pursuant to the Randolph-Sheppard Act.

B. The fund may receive monies from any source.

C. The legislature may make annual appropriations to the Trust Fund.

D. All unexpended and unencumbered monies remaining in the fund at the close of each fiscal year shall remain in the fund.

E. Monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund.

F. All interest earned from the investment of monies in the fund shall be deposited in and remain to the credit of the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2641-2645.
HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:119 (February 1996).

**§2111. Expenditures**

A. The monies in the fund shall be used solely for programs to provide services for the Blind Enterprise Program established in Louisiana pursuant to the Randolph-Sheppard Act.

B. Money in the trust fund from vending machines located on federal property shall be distributed for the primary purpose of the establishment and maintenance of retirement or pension plans, for health insurance, and contributions for the provisions of paid sick leave and vacation time for blind vendors, if approved by majority vote of blind vendors licensed by the agency after the agency has provided to each vendor information on all matters relevant to such purposes.

C. Income not expended for the primary purpose shall be used for the maintenance and replacement of equipment, the purchase of new equipment, management services, and

securing a fair return to vendors, or as provided by state and federal guidelines.

D. Money in the trust fund from vending machines located on state-owned property or on property leased by the state agency, or on other property shall be distributed for any purpose associated with the Randolph-Sheppard Program as may be determined by the state licensing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2641-2645.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:120 (February 1996).

**§2113. Financial Reports**

The director of Louisiana Rehabilitation Services of the Department of Social Services or his or her designee shall arrange for full and accurate financial records to be maintained in compliance with law and shall make a full and complete report to the board annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2641-2645.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:120 (February 1996).

**§2115. General Requirements**

A. Nondiscrimination. All programs administered by and all services provided by the agency shall be rendered on a nondiscriminatory basis without regard to race, creed, color, age, religion, sex, national origin, disability, ethnicity, or status with regard to public assistance in compliance with all appropriate state and federal laws and regulations.

B. Civil Rights and Equal Employment Opportunities with Regard to Employees or Agencies Delivering Services. Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination because of race, color, or national origin; Title V of the Rehabilitation Act of 2973, as amended, and Title I of the Americans with Disabilities Act PL 101-336 prohibit discrimination because of disabling condition. The provisions of these acts apply to services and programs administered by Louisiana Rehabilitation Services.

C. Compliance with State and Federal Laws and Regulations, and Departmental Policies and Procedures. All agencies and staff involved in the Blind Vendors Trust Fund shall comply with all state and federal laws, including the Department of Social Services policies and procedures as well as civil rights rules and regulations, as applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2641-2645.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 22:120 (February 1996).

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