

NOTICE OF INTENT

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

**Traumatic Head and Spinal Cord Injury
(LAC 48:I.Chapter 19)**

Under the authority of R.S. 36:259 (T) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:450 et seq., the Louisiana Department of Health, Office of Aging and Adult Services, gives notice that rulemaking procedures have been initiated to amend the Traumatic Head and Spinal Cord Injury regulations, LAC 48:I.Chapter 19.

This proposed rule amends language in order to align with statute changes to R.S. 46:2631 and R.S 46:2635 (A) approved in the 2018 Regular Legislative Session, ACT 424, and to codify current processes to ensure timely and efficient delivery of services to participants.

Title 48

**Public Health - General
Part I. General Administration
Subpart 1. General**

Chapter 19. Traumatic Head and Spinal Cord Injury

Editor's Note: This Chapter, formerly LAC 67:VII.Chapter 19, was moved to LAC 48:I.Chapter 19.

§1901. Program Profile

[Formerly LAC 67:VII.1901]

A. ...

B. Program Administration

1. The Department of Health, Office of Aging and Adult Services (OAAS), shall be responsible for administration of the Louisiana Traumatic Head and Spinal Cord Injury Trust Fund.

2. OAAS has the responsibility of:

a.-b. ...

c. evaluating the needs of head injured and spinal cord injured individuals to identify service gaps and needs;

d. submitting an annual report with recommendations to the legislature and governor 60 calendar days prior to each Regular Session of the Legislature; and

e. monitoring, evaluating, and reviewing the development and quality of services funded through the trust fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1252 (November 1995), amended by the Department of Health and

Hospitals, Office of Aging and Adult Services, LR 40:84 (January 2014), amended by the Louisiana Department of Health, Office of Aging and Adult Services, LR 44.

§1905. Definitions

[Formerly LAC 67:VII.1905]

Medically Stable-Repeal

Medically Unstable- Repeal

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1253 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:84 (January 2014), amended by the Department of Health, Office of Aging and Adult Services, LR 42:1669 (October 2016), amended by the Louisiana Department of Health, Office of Aging and Adult Services, LR 44

§1907. General Requirements

[Formerly LAC 67:VII.1907]

A. ...

B. Case Record Documentation. A case record will be maintained for each individual served.

1. The record shall contain the following:

- a. documentation to support the decision to provide, deny, or amend services;
- b. documentation of the amounts and dates of each service delivery;
- c. service plans and progress notes;
- d. proof of individual identifications; and
- e. any applicable assessments.

2. Repeal

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1253 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:85 (January 2014), amended by the Louisiana Department of Health, Office of Aging and Adult Services, LR 44.

§1909. Individual Appeals Rights

[Formerly LAC 67:VII.1911]

A. Administrative Review. The administrative review is the first level appeal process used by individuals for a timely resolution of disagreements pertaining to eligibility decisions or a denial of services.

1. All applicants/participants shall be provided written notification to inform them of their appeal rights regarding eligibility and/or the denial of services.

a. The written notification shall include:

i. the decision being reached;

ii. the basis for and effective date of the decision;

iii. the specific means for appealing the decision;

iv. the individual's right to submit additional evidence and information;

v. information about the individual's right to representation; and

vi. the name and address of the trust fund program.

2. The appeal must be requested by the individual (or their representative) and shall be:

a. made in writing; and

b. post-marked or received in the trust fund program office within 15 business days of the date on the written notification of denial.

c. Repeal

d. Repeal

e. Repeal

3. The administrative review may be conducted face-to-face or via telephone with the program manager of the Traumatic Head and Spinal Cord Injury Trust Fund Program.

4. Services shall continue during the administrative review process unless the services being provided have been obtained through:

a. misrepresentation;

b. fraud; and/or

c. collusion or criminal conduct on the part of the individual.

5. The administrative review must take place, a decision reached, and written notification of the decision provided to the individual within 30 calendar days of the receipt of the individuals' appeal request.

6. The written notification of the administrative review decision shall include:

a. the decision being reached;

b. the basis for and effective date of the decision;

c. the specific means for appealing the administrative review decision;

7. If the individual fails to attend the administrative review either in person or via telephone, the appeal will be considered abandoned and the appeal process is exhausted.

B. Advisory Board Review. In the event that a disputed decision is not resolved through the administrative review process, the individual may request a second level appeal before the advisory board.

1. Requests for advisory board review shall be:

a. made in writing to the program manager of the trust fund program;

b. post-marked or received in the trust fund program office within 15 business days of the date on the administrative review decision notice.

c. Repeal

d. Repeal

e. Repeal

2. The advisory board review shall 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.
3. The individual shall have the right to:
 - a. submit additional evidence, and
 - b. bring representation to the advisory board review.
4. The advisory board shall:
 - a. make an impartial decision;
 - b. provide a written notice of the decision within 10 business days of the advisory board review.
5. The decision of the advisory board is final and the appeal process is exhausted.
6. If the individual fails to attend the appeal hearing either in person or via telephone, the appeal will be considered abandoned and all appeal processes shall be exhausted.

NOTE: Repeal

AUTHORITY NOTE; Promulgated in accordance with
R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social
Services, Office of Rehabilitation Services, LR 21:1254
(November 1995), amended by the Department of Health and
Hospitals, Office of Aging and Adult Services, LR 40:85 (January
2014) ,amended by the Louisiana Department of Health, Office of
Aging and Adult Services,LR 44.

§1911. Program Eligibility

[Formerly LAC 67:VII.1913]

A. In order for an individual to be determined eligible for
services, the individual must:

1. meet the definition of spinal cord injury or traumatic brain
injury as defined in §1905 above;
2. be a resident of the state of Louisiana and officially
domiciled in the state of Louisiana at the time of injury and
during the provision of services;
3. have a reasonable expectation to achieve improvement in
functional outcome with assistance;
4. have exhausted all other Medicare and Medicaid sources;

5. be willing to accept services from an approved facility/program; and

6. complete and submit appropriate application for services.

7. Repeal

8. Repeal

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:86 (January 2014), amended by the Louisiana Department of Health, Office of Aging and Adult Services, LR 44.

§1913. Ineligibility

[Formerly LAC 67:VII.1915]

A. A determination of ineligibility is made when the individual does not meet program eligibility as defined in §1911 above.

1. Repeal

2. Repeal

3. Repeal

AUTHORITY NOTE: Promulgated in accordance with
R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social
Services, Office of Rehabilitation Services, LR 21:1255
(November 1995), amended by the Department of Health and
Hospitals, Office of Aging and Adult Services, LR 40:86 (January
2014), , amended by the Louisiana Department of Health, Office of
Aging and Adult Services, LR 44.

§1915. Fiscal

[Formerly LAC 67:VII.1917]

A. Limitations. Expenditures on behalf of any one individual
shall not:

1. exceed \$15,000 during the 12-month period based on the
participant's eligibility/anniversary date.
2. exceed the total lifetime maximum of \$50,000.

B....

C. Prior Written Authorization and Encumbrance. The proper
authorizing document(s) must be written before the initiation of
goods or services.

1. Failure to obtain prior authorization will result in a
denial of products or services.

a. The program manager may approve items to be reimbursed for situations deemed unavoidable/emergency.

D. All monies collected, but not expended, for the Traumatic Head and Spinal Cord Injury Trust Fund Program are carried forward to the following fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S.36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:86 (January 2014) ,amended by the Louisiana Department of Health, Office of Aging and Adult Services,LR 44.

§1917. Service Plan

[Formerly LAC 67:VII.1919]

A. Once an individual has been determined eligible for services, an appropriate individualized assessment shall be completed in order to:

1. determine the scope of services;
2. develop, implement, and update service plans as appropriate;
- 3.Repeal

4. Repeal

B. The service plan shall:

1. be individualized:

2. be outcome oriented;

3. include (at a minimum) all of the following:

a. specific services to be delivered or rendered;

b. frequency of the service(s)

c. beginning and ending dates;

d. costs of services;

e. service provider.

4. be presented by means understandable to the individual served.

C. The individual or authorized representative must give informed written consent to the service plan and all amendments.

D. The case record shall include all updates and amendments to the service plan.

AUTHORITY NOTE: Promulgated in accordance with|

R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255

(November 1995), amended by the Department of Health and

Hospitals, Office of Aging and Adult Services, LR 40:86 (January 2014).

§1919. Services

[Formerly LAC 67:VII.1921]

A....

B. Service plans shall be written with a goal of achieving specific objectives:

1.related to the participant's injury, and

2. to improve participant's functioning in their home and community.

C. Additional documentation may be requested to justify the need for a particular good/service.

D. Services may include, but are not limited to:

1-3. ...

4. medication and medical supplies;

5. personal care attendant services;

6.-7. ...

8. environmental accessibility modifications ;

9. vehicle accessibility modifications;

10. transportation for non-emergency medical appointments.

E. The trust fund will not pay for the following (this list is not all-inclusive):

1. -2. ...
3. routine vehicle maintenance and repairs;
4. routine home maintenance and repairs;
5. recreational items or activities;
6. routine bills or payments;
7. funeral expenses
8. legal expenses

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:86 (January 2014) ,amended by the Louisiana Department of Health, Office of Aging and Adult Services,LR 44

§1923. Conditions for Case Closure

[Formerly LAC 67:VII.1925]

A....

1. has shown consistent failure to cooperate with the service plan and case managers;
2. reaches the maximum \$50,000 in total lifetime expenditures;
3. has less than \$100 of the lifetime balance remaining for a period of 12 months or more.
4. does not meet the program's eligibility criteria;
5. resides in another state or moves to another state;
6. fails to maintain a safe and legal home environment;
7. is unable to be contacted after two phone call attempts on two separate days and does not respond to written notification within 15 business days of the date on the notice;
8. made misrepresentations in the eligibility determination process;
9. made misrepresentations to obtain goods and services;
10. is incarcerated.
11. repeal

AUTHORITY NOTE: Promulgated in accordance with
R.S. 46.2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social
Services, Office of Rehabilitation Services, LR 21:1256

(November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:87 (January 2014) ,amended by the Louisiana Department of Health, Office of Aging and Adult Services,LR 44

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered as described in R.S 49:972. It is anticipated that this proposed Rule will have a positive impact on the stability of the family and on the family budget as these changes will allow participants of the program to receive services in a more timely manner.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered as described in R.S. 49:973. It is anticipated that this proposed Rule will have a positive effect on health care for the THSCI clients as they will be able to obtain services quicker.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is

anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to the Louisiana Department of Health, Attn: THSCI Trust Fund Program, P.O. Box 2031 (Bin 14), Baton Rouge, LA 70821 or by email to THSCI@La.Gov. The THSCI Program Manager is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Monday, August 27, 2018 at 9 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person Preparing Statement: Sherlyn Sullivan Department: Louisiana Department of Health
Phone: (225) 342-1491 Office: Aging and Adult Services
Return Address: P.O. Box 2031 Rule Title: Traumatic Head and Spinal Cord Injury
Baton Rouge, LA 70821 Definitions
Date Rule Takes Effect: October 20, 2018

SUMMARY
(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)

The proposed rule change is anticipated to increase expenditures for the Office of Aging and Adult Services (OAAS) by approximately \$1,065 in FY 19 for the publication of the proposed rule. It is not anticipated that any other state or local governmental units will incur costs or savings as a result of this rule change.

The proposed rule amends Louisiana Administrative Code (LAC) Title 48, Part I, Chapter 19 - Traumatic Head and Spinal Cord Injury (THSCI). This rule change is being proposed to codify current practices to ensure applicants and participants of the program receive services in compliance with Act 424 of the 2018 RLS, which clarifies that services are intended to enable participants to return to a reasonable level of functioning in their communities with assistance and that funds are available through THSCI only after Medicare and Medicaid sources have been expended.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)

The implementation of these proposed rule changes will not affect revenue collections.

Currently, monies deposited into the THSCI trust fund are derived from a fee imposed on motor vehicle violations for driving under the influence, reckless operation, and speeding. Implementation of this rule change does not impact the source of revenue or level of revenue collected for this fund.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)

The proposed rule may provide an economic benefit to participants of the THSCI program. The present rule provides that individuals may receive distributions from the THSCI trust fund only as a last resort after private and governmental funding sources (such as private insurance, Social Security, Supplemental Security Income, Medicare, Medicaid, and personal resources) have been exhausted. This amendment removes the requirement that all private and governmental sources must be exhausted before qualifying for assistance from the fund and specifies that only Medicare and Medicaid sources must be exhausted, which allows participants to access services before exhausting all of their financial resources.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule has no known effect on competition and employment.

Tara A. LeBlanc
Signature of Agency Head or Designee

Tara A, LeBlanc, Assistant Secretary
Typed Name and Title of Agency Head or
Designee

7/6/18
Date of Signature

Shirley V. Adams
Legislative Fiscal Officer or Designee

7/6/2018
Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed rule changes clean up the language in the rule to ensure applicants and participants of the program receive services timely and efficiently. Rule changes are also being made to align with statute changes to RS 46:2631 and 46:2635 (A) approved in the 2018 Regular Legislative Session, in ACT424.

- A. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

ACT 424 of the 2018 Regular Legislative Session added two words to the end of RS 46:2631 to say, "The purpose of the Traumatic Head and Spinal Cord Injury Trust Fund is to provide Louisiana citizens who survive traumatic head and spinal cord injuries a source of funds for services enabling them to return to a reasonable level of functioning and independent living in their communities with assistance."

ACT 424 also amends RS 46:2635 (A) to say, "The funds shall be considered as a source of last resort after Medicare and Medicaid sources have been expended for Louisiana citizens." The previous statute said "after private and governmental sources have been expended."

In addition to these changes, other proposed rule changes are being requested to clean up the language of the rule to ensure participant and applicant requests for services are not denied and delayed while further information is received from the applicant/participant or their physician.

- B. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No. It is anticipated that implementation of these proposed rule changes will have no fiscal impact to the state other than the cost of promulgation. The administrative expenses associated with promulgation of both this proposed revised rule and the final rule are included in the central finance office contract for claims payment and processing.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ Yes. If yes, attach documentation.

(b) _____ No. If no, provide justification as to why this rule change should be published at this time

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 19	FY 20	FY 21
Personal Services	\$0	\$0	\$0
Operating Expenses	\$1,065	\$0	\$0
Professional Services	\$0	\$0	\$0
Other Charges	\$0	\$0	\$0
Equipment	\$0	\$0	\$0
Major Repairs & Constr.	\$0	\$0	\$0
TOTAL	\$1,065	\$0	\$0
POSITIONS (#)	0	0	0

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

It is anticipated that there will be no additional cost associated with this proposed rule change other than the cost for the state's administrative expense for promulgation of both this proposed rule and the final rule.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 19	FY 20	FY 21
State General Fund	\$1,065	\$0	\$0
Agency Self-Generated	\$0	\$0	\$0
Dedicated	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0
Other (Specify)	\$0	\$0	\$0
TOTAL	\$1,065	\$0	\$0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Yes, sufficient funds are available to implement this rule.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

This proposed rule has no known impact on local governmental units.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

There is no known impact on local governmental unit funding.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

There are no known anticipated increases or decreases in revenues from the proposed rule change.

REVENUE INCREASE/DECREASE	FY 19	FY 20	FY 21
State General Fund	\$0	\$0	\$0
Agency Self-Generated	\$0	\$0	\$0
Dedicated Funds*	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0
Local Funds	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

It is anticipated that the proposed rule changes will have no effect on revenues.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

This proposed revised rule will have no effect on costs for applicants to the program, staff, or providers.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

There are no estimated impacts to receipts or income for impacted groups.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

This proposed rule is anticipated to have no impact on competition and employment in the public or private sectors.