

OFFICE OF THE STATE REGISTER INSERTION ORDER (eff.08/02)

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(SUBMIT A SEPARATE INSERTION ORDER PER DOCUMENT)

☐ EMERGENCY RULE ☐ NOTICE OF INTENT ☒ RULE ☐ POTPOURRI

REFER TO INSTRUCTIONS ON REVERSE SIDE

This is your authority to publish in the (month) February, 20 15 *Louisiana Register* the document indicated above.

Office of Aging and Adult Services

Office/Board/Commission promulgating this document

Kathy H. Kliebert Secretary

(name) (title)
 Name and title of person whose signature will appear in the publication (at the end of the document)

Department of Health and Hospitals

Department under which office/board/commission is classified

Kirsten Clebert 225-219-1149 225-219-0202

(name) (phone) (fax)
 Name, phone number, and FAX number of person to contact regarding this document

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E-mail address of contact person

Provide a short descriptive listing for this document to be used in the *Louisiana Register's* TABLE OF CONTENTS/INDEX (note: this description should match the fiscal statement title, if sending a Notice of Intent:

*If sending a diskette, indicate the name of the file on diskette:

State Personal Assistance Services (SPAS)

Important: If submitting both an Emergency Rule (ER) and a Notice of Intent (NOI) to be published this month, AND if the rule text in the ER is identical to the rule text in the NOI, check here: ☐


 Signature of Agency Head or Designee

Kathy H. Kliebert, Secretary

Print Name and Title of Agency Head or Designee

CERTIFICATION OF AVAILABLE FUNDS

DOCUMENT # _____

☒ **ISIS AGENCY:** I certify the availability of fiscal year 14-15 appropriated funds for the payment of the above referenced publication and authorize the processing of an Interagency Billing with the following coding on the 30th of the month of the publication. Attach supplemental sheet for additional lines of coding.

<u>320</u>	<u>0044</u>	<u>2700</u>	<u>--</u>	<u>4010</u>
AGENCY	ORGANIZATION #	OBJECT	SUB-OBJECT	REPORTING CATEGORY

☐ **NON-ISIS AGENCY:** I certify the availability of fiscal year _____ appropriated funds for the payment of the above referenced publication and agree to place corresponding invoice in line for payment upon receipt.

Billing Address for Agencies:

Department of Health and Hospitals

Agency Name

P.O. Box 2031 - BIN #14

Street Address or Post Office Box

Baton Rouge LA 70821-20

City State Zip Code


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Public Comments

Interested persons may submit written comments to Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, LA 70821-2031. He is responsible for responding to inquiries regarding this proposed Rule. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Tuesday, December 30, 2014 at 1 p.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested individuals will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Adult Protective Services Agency

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

The Adult Protective Services Act (LA R.S. 15:1501-1511) delineates the operation of an adult protective services program for individuals aged 60 years or older to the Governor's Office of Elderly Affairs (GOEA) and individuals between the ages of 18 - 59 years old to the Department of Health and Hospitals (DHH), Office of Aging and Adult Services (OAAS). However, a Memorandum of Understanding (MOU) signed in July 2012 between DHH and the Governor's Office of Community Programs has transferred the operation of the adult protective services programs for individuals age 60 years or older (commonly referred to as Elderly Protective Services – EPS) to DHH/OAAS. Although GOEA maintains the responsibility for EPS through the statutes, the operation of the EPS program by DHH/OAAS is accomplished through the MOU. This rule proposes to expand the Adult Protective Services program within DHH/OAAS to any individual 18 years and older as outlined in the MOU.

This proposed rule change does not affect current services offered through the Adult Protective Services Program and therefore are not anticipated to result in any additional savings or costs, other than the cost of promulgation of the rule in the amount of \$2,050 in FY 14-15. This cost is routinely included in the agency's annual operating budget.

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

There is no known effect on revenue collections of state or local governmental units.

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

Individuals aged 60 years or older will now receive protective services from DHH/OAAS. The proposed rule is not anticipated to impact services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule is not anticipated to have any effect on competition and employment.

Robin Wagner
Deputy Assistant Secretary
1411#018

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

Final Rule NOTICE OF INTENT

Department of Health and Hospitals Office of Aging and Adult Services

State Personal Assistance Services Program
(LAC 48:I.Chapter 191 and LAC 67:VII.Chapter 11)

The Department of Health and Hospitals, Office of Aging and Adult Services proposes to repeal LAC 67:VII.1101-1129 and promulgate LAC 48:I.19101-19121 as authorized by R.S. 46:2116.2. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

During the 2010 Regular Session, the Louisiana Legislature authorized the transfer of the State Personal Assistance Services Program and its functions to the Department of Health and Hospitals, Office of Aging and Adult Services (R.S. 46:2116.2). This proposed Rule is being promulgated to adopt the changes created by the new legislation.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 17. Personal Assistance Services

Chapter 191. State Personal Assistance Services Program

Editor's Note: This Chapter, formerly LAC 67:VII.Chapter 11, was moved to LAC 48:I.Chapter 191.

§19101. Mission

[Formerly LAC 67:VII.1101]

A. General Statement. The legislature of Louisiana recognizes the right of people with significant physical disabilities to lead independent and productive lives and further recognizes that persons with significant disabilities require personal assistance to meet tasks of daily living and, in many cases to avoid costly institutionalization. The creation of the State Personal Assistance Services Program, hereafter referred to as the SPAS Program, is to provide state personal assistance services to persons with significant disabilities in order to support and enhance their employability and/or to avoid inappropriate and unnecessary institutionalization. The mission of the SPAS Program is to provide for an orderly sequence of services to those persons who are determined eligible for the program.

B. Program Administration. The Department of Health and Hospitals, through Office of Aging and Adult Services (OAAS), is responsible for the administration of the SPAS Program.

C. Purpose of this Rule. This Rule sets forth the policies of OAAS in carrying out the agency's mission, specifically as this mission relates to the SPAS Program.

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. 46:2116.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), repromulgated LR 19:1436 (November 1993), amended LR 33:1146 (June 2007), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§19103. Enabling Legislation

[Formerly LAC 67:VII.1103]

A. House Bill Number 1198, Act 939 of the 2010 Regular Session, LAC Title 48, Chapter 191, *Revised Statute* 46:2116.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2116.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1437 (November 1993), LR 33:1146 (June 2007), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§19105. Definitions

[Formerly LAC 67:VII.1105]

A. The following terms, when used in this manual, shall have the meaning, unless the context clearly indicates otherwise.

Self-Directed—the participant or legal/personal representative will direct, supervise, hire and discharge his/her personal attendant and be able to *self-direct* all goods/services needed.

Management Contractor/Fiscal Agent—contracted entity which may be responsible for day to day program activities including but not limited to eligibility requirements, etc.

Department—the Department of Health and Hospitals.

Individual with Significant 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 non-medical personal care needs, domestic or cleaning needs, dressing and undressing, moving into and out of bed, transferring, ambulation, related services including but not limited to meal preparation, laundry, and grocery shopping, and/or other similar activities of daily living.

PA—personal assistance.

Secretary—the *secretary* of the Department of Health and Hospitals.

State Personal Assistance Services (SPAS) Program—services means goods and services which are required by a person with significant disabilities age 18 eighteen or older to increase a person's independence or substitute for a person's dependence on human assistance.

Intentional Program Violation—made a false or misleading statement, or misrepresented, concealed or withheld fact; or committed any act that constitutes a violation of the SPAS Program or SPAS policy and/or procedures.

AUTHORITY NOTE: Promulgated in accordance with 46:2116.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1437 (November 1993), LR 33:1146 (June 2007), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§19107. General Requirements

[Formerly LAC 67:VII.1107]

A. Cost-Effective Service Provision. All services shall be provided in a cost-effective manner.

B. This program shall be considered as a source of last resort for personal assistance services after private and governmental sources have been expended.

C. Case File Documentation. All SPAS Program management contractors/fiscal agents must maintain a case file for each SPAS Program participant. 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.

D. The department is under no obligation to perform any of the services described in R.S. 46:2116 et seq., and can utilize other sources to provide these services. Additionally, funds appropriated for state plan personal assistance services may be used as match for available funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2116.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), repromulgated LR 19:1437 (November 1993), amended LR 33:1146 (June 2007), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§19109. Applicant and Participant Appeal Rights

[Formerly LAC 67:VII.1111]

A. Any individual whose request is denied for goods/services, denied eligibility or discharged from the program may appeal said decision in accordance with the provisions of R.S. 46:107. Such appeal shall be conducted in accordance with the Administrative Procedure Act and shall be subject to judicial review.

B. A participant's current services shall remain in place during the appeals process until a final administrative decision is reached. A decision is final when the Division of Administrative of Law renders a decision on the appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2116.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1438 (November 1993), LR 33:1147 (June 2007), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§19111. Eligibility Decisions

[Formerly LAC 67:VII.1113]

A. An individual can be determined eligible for services as set forth in R.S. 46:2116.2 if that individual meets all of the following criteria:

1. is an individual with significant disabilities;
2. is age 18 or older;
3. needs goods and/or personal assistance services from this program to prevent or remove the individual from inappropriate placement in an institutional setting or enhance or maintain individual's employability;
4. provides verification of the disability from the treating physician;
5. is capable or has legal/personal representation capable of self-direction. Although the participant is capable of self-directing they may chose a qualified provider agency for services; and
6. has unique economic and social needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2116.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:1147 (June 2007), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§19113. Economic Need

[Formerly LAC 67:VII.1115]

A. In determining an individual's financial need for services, the management contractor will use a system based upon the current federal poverty guidelines. The economic need status of each participant for the SPAS Program shall be considered in the initial determination of eligibility for services and at least annually thereafter. The participant must provide verification of income.

B. The total monthly income of the SPAS applicant and/or spouse shall be considered in determining the amount of available income in the determination of eligibility for services. Current income received on a regular basis must be considered regardless of its source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2116.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 33:1148 (June 2007), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§19115. Plan for State Personal Assistance Services

[Formerly LAC 67:VII.1117]

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.

B. A state personal assistance services plan is to be developed between the participant and the management contractor to determine the specific goods/services needed. A SPAS plan shall be initiated annually or more often, if indicated. The SPAS plan and all updated plans shall be contained in the participant's case record.

C. The participant is to cooperate fully in the development of the SPAS plan, including all changes and amendments. The participant's signature is required for the personal assistance plan and any amendments.

D. Minimum content of the personal assistance plan:

1. identification of specific goods/services to be delivered;
2. the frequency of goods/services with flexibility;
3. the beginning date and service review dates.

E. Annual State Personal Assistance Services Plan Review. Every 12 months a review of the SPAS plan is mandatory and shall be reflected on the amended plan. A review can be done before 12 months, if indicated. In all cases, the participant shall be involved in any review and/or changes to his/her personal assistance plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2116.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:1148 (June 2007), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§19117. Financial

[Formerly LAC 67:VII.1119]

A. Prior Authorization. A participant shall obtain prior authorization from contract manager for goods and/or services before they can begin. Failure to obtain prior authorization will result in a denial of goods or services. If an emergency situation exists where goods or services are

needed to begin prior to the management contractor's receipt of written acceptance, management contractor may provide verbal authorization for services to begin. The management contractor must amend the SPAS plan before service can begin.

B. The participant of SPAS will invoice the management contractor bi-monthly in arrears for personal assistance 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. description of goods/ services provided along with the number of hours of personal assistance services per day and/or number of goods received;
3. rate of pay;
4. signature of direct service worker; and
5. signature of participant of the SPAS Program.

C. The participant of SPAS will submit receipts or invoices for the goods and/or other services purchased to the management contractor as verification of the goods and/or other services being provided.

D. All purchases must comply with state purchasing guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2116.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:1148 (June 2007), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§19119. Management Contractor Responsibilities

[Formerly LAC 67:VII.1121]

A. The management contractor shall keep a waiting list of individuals wanting to apply for the SPAS Program.

B. The management contractor shall take a pre-application on participants who will be placed on the waiting list for services and shall use criteria developed by OAAS.

C. The management contractor shall maintain a case record on each participant and applicant. The case record must include, as a minimum, the pre-application form and, if applicable, a copy of the denial of eligibility letter, personal assistance plan and all amendments to this plan, documentation from medical and/or other appropriate sources, proof of income and any other additional material which is a necessary part of the application and/or reconsideration for the SPAS Program.

D. Upon admission into the program, the management contractor shall review and have the participant sign an agreement of understanding outlining the management contractor's responsibilities as well as the participant's. A copy should be left with the individual and a signed copy shall be maintained in the participant's case record.

E. The management contractor shall reassess all SPAS Program participants at least annually or more often if their needs change. If there is a change in circumstances, a revised personal assistance plan must be completed.

F. The management contractor shall make available all required OAAS training and certifications to all participants who self direct their personal assistance under this program. Documentation of training including dates, name of trainer and names of individuals trained should be included in the case record.

G. The management contractor shall maintain copies of the time sheets and/or invoices received. Time sheets and invoices shall document the date goods/services rendered, description of the goods/services, times services rendered, name and contact information of the provider. Payments for the time worked shall be paid within a reasonable period of time after the invoice is received by the management contractor.

H. The management contractor shall investigate information brought to the management contractor's attention which causes question of continued eligibility. This could include such items as falsification of time sheets, misuse of SPAS Program funds, and any other violation of the policy stated herein. This information shall be provided to the OAAS program manager for disposition. If the information provided is substantiated, this shall be reason for denial of services or loss of eligibility.

I. The management contractor shall provide the participant with a copy of the SPAS Program policy manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2116.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:611 (June 1991), amended LR 19:1439 (November 1993), LR 33:1149 (June 2007), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§19121. Reasons for Closure and/or Termination

[Formerly LAC 67:VII.1127]

A. The following may result in termination of services and/or closure:

1. the participant no longer meets eligibility criteria;
2. the participant intentionally falsified information;
3. the participant has shown consistent failure to cooperate with the service plan and management contractor;
4. the participant is unable to be contacted and/or whereabouts unknown for 90 days or more and no response after an attempted home visit and certified letter;
5. the participant made misrepresentations in the eligibility determination process;
6. the participant made misrepresentations to obtain goods and services;
7. any other reason which is contradictory to policy and procedures for the SPAS Program.

B. The management contractor should issue a "warning" to participants who commit a violation of policy. If the violation is not intentional, written notice of the violation and action to correct the violation is to be given to the participant. A copy of the warning notice to the participant is to be placed in the participants case record. The management contractor shall make a recommendation to the OAAS program manager to terminate a participant who continues to violate the policy and/or procedures of the SPAS Program after a warning has been issued. The decision to terminate will be based on the severity of the violation(s) and/or continued violation(s) and will be made by OAAS.

1. If the violation of policy by the participant was intentional, the management contractor shall immediately notify the OAAS program manager. In the case of an intentional violation of the policy by the participant, a warning does not need to be issued prior to termination from the program.

2. When a participant is terminated from this program the management contractor will send a termination letter to

the participant that explains the reason(s) and right to an appeal;

C. Recoupment

1. In lieu of termination, the management contractor can demand that a participant refund the SPAS Program for all benefits received.

2. If the management contractor rules that the participant must repay the amount in question, the management contractor will determine the repayment schedule. Participant can remain eligible as long as recoupment is made and a willingness to comply with policies and procedures set forth in the SPAS Program are shown. The management contractor shall maintain close monitoring of the participant until such time the management contractor determines participant is complying with the policies and procedures.

3. Recoupment is required from fraudulently received benefits as well; however, the participant will not be eligible for further services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2116.2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 21:1251 (November 1995), amended LR 33:1149 (June 2007), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 11. State Personal Assistance Services Program

§1101. Mission

Repealed.

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 19:1436 (November 1993), amended LR 33:1146 (June 2007), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§1103. Enabling Legislation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 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), LR 33:1146 (June 2007), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§1105. Definitions

Repealed.

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), LR 33:1146 (June 2007), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§1107. General Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 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 19:1437 (November 1993), amended LR

33:1146 (June 2007), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§1109. Confidentiality

Repealed.

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), LR 33:1147 (June 2007), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§1111. Applicant and Consumer/Recipient Appeal Rights

Repealed.

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), LR 33:1147 (June 2007), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§1113. Eligibility and Ineligibility Decisions

Repealed.

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), LR 33:1147 (June 2007), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§1115. Economic Need

Repealed.

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 33:1148 (June 2007), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§1117. Plan for State Personal Assistance Services

Repealed.

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), LR 33:1148 (June 2007), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§1119. Financial

Repealed.

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), LR 33:1148 (June 2007), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§1121. Contractor/fiscal Agent Responsibilities

Repealed.

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), LR 33:1149 (June 2007), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§1123. Evaluation Team Responsibilities

Repealed.

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), LR 33:1149 (June 2007), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§1125. Responsibilities for LRS in the Eligibility Decision

Repealed.

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), LR 33:1149 (June 2007), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§1127. Violations, Penalties, and Reasons for Closure

Repealed.

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 21:1251 (November 1995), amended LR 33:1149 (June 2007), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

§1129. Procedures for Termination and/or Appeals

Repealed.

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 (November 1993), amended LR 21:1252 (November 1995), LR 33:1150 (June 2007), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 41:

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. It is anticipated that this proposed Rule will have a neutral effect on the ability of the family to perform its functions since the Rule only authorizes the transfer of responsibilities from the Department of Children and Family Services (DCFS) to the Department of Health and Hospitals (DHH), Office of Aging and Adult Services (OAAS).

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. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Statement

A regulatory flexibility analysis pursuant to R.S. 49:965.6 has been conducted. It has been determined that the promulgation of this Rule will not have an adverse impact on small business.

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,

and will have no direct or indirect cost to the provider to provide the same level of service.

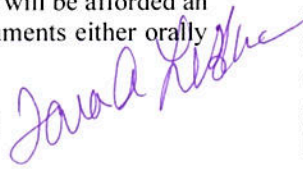
Public Comments

Interested persons may submit written comments to Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, LA 70821-2031. He is responsible for responding to inquiries regarding this proposed Rule. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Tuesday, December 30, 2014 at 1 p.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested individuals will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy Kliebert
Secretary



FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: State Personal Assistance Services Program

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

The proposed rule enacts Louisiana Administrative Code (LAC) Title 48, Part 1, Section 13501-13521—State Personal Assistance Services Program (SPAS) (formerly LAC Title 67, Part VII, Section 1101-1129). During the 2010 Regular Session, Act 939 (HB 1198) transferred the State Personal Assistance Services Program and its functions from the Department of Children and Family Services (DCFS) to the Department of Health and Hospitals (DHH), Office of Aging and Adult Services (OAAS).

The transfer of the State Personal Assistance Services Program from LAC Title 67 (Social Services) to LAC Title 48 (Public Health—General) does not impact current services offered through the program being administered DHH/OAAS. Therefore, the proposed rule is not anticipated to result in any additional savings or costs, other than the cost of promulgation of the rule in the amount of \$2,050 (Statutory Dedication) in FY 14-15. This cost is routinely included in the agency's annual operating budget.

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

There is no known effect on revenue collections of state or local governmental units.

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

There is no known cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule is not anticipated to have any effect on competition and employment.

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NOTICE OF INTENT

Department of Health and Hospitals Office of Public Health

Reclassification of Failure to Obtain a Food Safety Certification as a Class A Violation (LAC 51:I.113)

Editor's Note: This Notice of Intent is being republished to correct a submission error. The original Notice of Intent may be viewed in the September 20, 2014 *Louisiana Register* on pages 1803-1804.

Under the authority of R.S. 40:4, R.S. 40:5 et seq., R.S. 40:6, and in accordance with R.S. 49:950 et seq. of the Louisiana Administrative Procedures Act, the State Health Officer, acting through Department of Health and Hospitals Office of Public Health, intends to amend Title 51, Part I, §113 (Suspension/Revocation/Civil Fines or Penalties [formerly paragraph 1:007-21]) of the *Public Health—Sanitary Code*. This Rule is being proposed to reclassify failure to have a food safety certificate from a class B violation to a class A.

The Department of Health and Hospitals (DHH), Office of Public Health (OPH) proposes two amendments to Title 51, Part I, Section 113 (Suspension/Revocation/Civil Fines or Penalties [formerly paragraph 1:007-21]) of the *Public Health—Sanitary Code*. This proposed Rule reclassifies failure to have a food safety certificate from a class B violation to a class A violation. In Section 113(i) class A, the first proposed amendment adds the following language, "failure to obtain a food safety certification in accordance with §305 of Part XXIII", as a new violation that creates a condition or occurrence, which may result in death or serious harm to the public. In §113.A.3.a.ii, Class B, the second proposed amendment deletes the following language, "a food safety certificate", relating to permitting, submitting of plans, or training requirements.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part I. General Provisions

§113. Suspension/Revocation/Civil Fines or Penalties [Formerly Paragraph 1:007-21]

A. Pursuant to the provisions of R.S. 40:4, R.S. 40:5 and R.S. 40:6, the state health officer acting through the Office of Public Health, for violation(s) of a compliance order may:

1. suspend or revoke an existing license or permit;
2. seek injunctive relief as provided for in R.S. 40:4 and in 40:6; and/or
3. impose a civil fine:

a. these civil fines shall not exceed \$10,000 per violator per calendar year applicable to each specific establishment, facility, or property that the violator owns, manages, operates or leases. The schedule of civil fines by class of violations shall be as follows:

i. class A. Violations that create a condition or occurrence, which may result in death or serious harm to the public. These violations include, but are not limited to: cooking, holding or storing potentially hazardous food at improper temperatures; failure to follow schedule process in