



State of Louisiana
Louisiana Department of Health
Office of the Secretary

February 7, 2020

Via Statutorily Prescribed Email

To: The Honorable Chairman, Senate Health & Welfare Committee
The Honorable Chairman, House Health & Welfare Committee

From: Stephen R. Russo, JD *By Cindy Russo for*
Secretary

Re: Second Report on Proposed Amendments to LAC 48:I.Part IX. Chapter 11 –
Community and Family Support System – Individual and Family Support Program

A Notice of Intent on the proposed amendments was published in the December 20, 2019 issue of the *Louisiana Register* (LR 45:1883). No written comments or requests for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the December 20, 2019, Notice of Intent as a final rule when it is published in the March 20, 2020, issue of the *Louisiana Register*.

Please contact Carol Lee, OCDD Rulemaking Liaison, at carol.lee@la.gov or (225) 342-5717, if you have any questions or require additional information about this matter.

Cc: Julie Foster Hagan, Assistant Secretary, Office for Citizens with Developmental Disabilities
Karen Stubbs, Assistant Secretary, Office of Behavioral Health
Anita Dupuy, Legislative Liaison, Louisiana Department of Health
Carol Lee, Rulemaking Liaison, Office for Citizens with Developmental Disabilities
Allen Enger, Statewide Program Manager, Louisiana Department of Health
Catherine Brindley, Editor, *Louisiana Register*, Office of State Register

Notice of Intent

Department of Health

Office for Citizens with Developmental Disabilities

Community and Family Support System

Individual and Family Support Program

(LAC 48:I.Part IX. Chapter 11)

Under the authority of R.S. 28:824, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that, the Louisiana Department of Health (LDH), Office for Citizens with Developmental Disabilities (OCDD), hereby proposes to amend LAC 48:1, Chapter 11, 1101 - 1137, Individual and Family Support (IFS) Program. The intent of the proposed amendment is to set forth recommended changes as requested by the Developmental Disabilities Council. The proposed rule includes a section on the Guiding Principles; redefined the IFS Program's purpose; allows infants and toddlers eligible for Early Steps to also be eligible for IFS services; allows for reimbursement policy changes; replaces "payer of last resort" with the appropriate payer source; deleted references to "ineligible supports;" specified additional information be provided to the Regional Advisory Committee at least quarterly; allows for the continuation of services throughout the appeal

process; requires notification to individual/family requesting IFS services of the opportunity to present their request to the IFS Committee during development of the Plan of Support; and stipulates that any LGE internal policy shall be submitted to state office for review, recommendations and feedback.

Title 48

Health and Hospitals - General

Part IX. Developmental Disabilities Services

Chapter 11. Individual and Family Support Program

§1101. Purpose

A. The individual and family support program is designed to meet ~~thesethe~~ the needs of individuals with intellectual/developmental disabilities, which exceed those normally met by existing resources, ~~both~~ entitlements, and those occurring naturally in the individual's family and community. pursuant to the Guiding Principles of ACT 378 of the 1989 Regular Legislative Session as contained in R.S. 28:823.

B. The purposes of the individual and family support program shall be:

1. to establish-~~ex~~, maintain and/or improve the quality of life for individuals with intellectual/developmental

disabilities and their families in a manner that respects both the individual's needs and aspirations and the individual's ability to use supports in a responsible and accountable manner;

2. to link individuals with intellectual/developmental disabilities and their families to existing supports and resources and to supplement those supports as necessary to maintain and/or improve the integrity of individuals and their families.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:664 (April 2017), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 46:.

§1103. Definitions

Applicant—the individual with intellectual/developmental disabilities for whom supports are requested.

Community Support Professional—a Local Governing Entity (LGE) staff person whose duties may include support coordination to applicants ~~for~~ and participants in individual and family support program.

Developmental Disability—defined in accordance with the developmental disability law at R.S. 28:451.2(12).

~~Eligible Individual~~ individual who has been determined to be eligible Direct Service-any good, support or service purchased for or provided to an individual with intellectual/developmental disabilities ~~services,~~ directly by a service provider or secured/purchased by the individual/family through merchants and/or contractors used to assist the individual to remain in their own home in the community.

Eligible Individual-individual who has a statement of approval (SOA) to participate in intellectual/developmental disabilities services as part of the current single point of entry (SPOE) process in most current use as established by the OCDD. or an individual eligible for and enrolled in EarlySteps services.

~~Individual and Family Support Committee~~-the advisory committee to the individual and family support (IFS) program within each local governing entity administering the IFS program.

Local Governing Entity (LGE)-an integrated human services delivery system with local accountability and management and which provides behavioral health and developmental disabilities services through local human services districts and authorities.
~~an existing or newly created local governmental entity with local accountability and management of behavioral health and~~

~~developmental disabilities services as well as any public health or other services contracted to the district by the department.~~

Office for Citizens with Developmental Disabilities (OCDD)—the office, within the Louisiana Department of Health (LDH), ~~which~~that has the responsibility for developing, evaluating and guiding programs and supports for Louisiana's citizens with intellectual/developmental disabilities.

Plan of Support—the individualized plan for provision of supports for individuals and families developed utilizing the most recently approved format by the OCDD for individuals with intellectual/developmental disabilities.

Support Coordination—the provision of assistance to individuals with intellectual/developmental disabilities or their families to identify and coordinate necessary supports and to access, utilize and maintain those supports in a fiscally sound manner.

Support Coordinator—the person responsible for ~~eases~~support coordination for an individual with intellectual/developmental disabilities and/or his/her family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:665 (April

2017), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 46:.

§1105. Participant Records

A. ~~Each local governing entity (LGE)~~ will maintain a single participant record for each applicant or ~~recipient of participant~~ in the individual and family support program funding, which will comply with ~~all Louisiana Department of Health (LDH), (OCDD),~~ and Health Insurance Portability and Accountability ACT (HIPAA) requirements. The record will reflect all aspects of service provision to the participant, inclusive of multiple or varied funding sources and/or fiscal year. The record shall include progress note entries that are legible, and provide strict chronological documentation for all individual and family support case activity. Progress notes will also include the date written and the signature of the author of each note to be considered complete.

~~1. Progress note entries will provide strict chronological documentation for all case activity from all programs; these notes will be signed and dated to be considered complete.~~

~~2. Monitoring from external agencies will be acceptable provided documentation complies with requirements set forth by OCDD; the LGE administering the program shall be responsible for ensuring that adequate documentation is included in the record.~~

B. Each LGE administering the individual and family support program will comply with established policies and procedures of the LDH and the OCDD ~~effor~~ the confidentiality of and access to participant records and the time-periods to retain those records.

C. ~~Necessary~~The following additional information specific to the development of the request for individual and family support resources shall also be included in the participant record:

1. plan of support document that is current within a year and ~~generated in a format approved by the OCDD~~ or a comprehensive plan of care current within a year, which clearly identifies services requested and received from the LGE, or an EarlySteps individualized family services plan (IFSP), that is current within a year;

2. individual and family support prioritization instrument that is current within a year;

3. notice of decision for the individual and family support program;

4. individual and family support notice of right to appeal, as appropriate; and

5. individual and family support request for appeal, as appropriate.

D. When individual and family support funds are allocated and expended on behalf of ~~individuals,~~participants these documents will be maintained in the ~~records~~participant's record in compliance with the requirements of the LDH, OCDD, and auditing authorities, and shall, at a minimum, include:

1. justification to, and approval from, the executive director of a LGE for expenditures in excess of \$15,000, in a single fiscal year, ~~inclusive of all funding sources, as appropriate;~~

2. justification to, and approval from, the executive director of a LGE for ~~approval of an exception for use of funds not authorized by~~funding of services outside these program guidelines, ~~as appropriate;~~ and

3. expenditure recap sheet, which specifies the total amount of individual and family support funds authorized, dates and amounts of expenditure of these funds and the total remaining on the initial allocation.

E. Agencies administering the individual and family support program will be required to comply with the requirements set forth and utilize forms approved for use by the OCDD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:665 (April

2017), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 46:.

§1107. Eligibility

A. The individual and family support program is a resource available to serve an individual with intellectual/developmental disabilities and his/her family as follows.

1. The individual lives in Louisiana and ~~is approved~~ has a statement of approval to participate in intellectual/developmental disabilities services in accordance with the developmental disability law. ~~More specifically, the individual has a current statement of approval.~~

2. The individual may receive individual and family support funds to address identified needed supports to enable the person to remain in the community and/or to improve his/her quality of life.

3. The individual is at risk of being institutionalized or is institutionalized, but intends to return to the community with appropriate supports.

B. The individual and his/her family must demonstrate the ability to provide the necessary and appropriate care and supervision for the individual with intellectual/developmental disabilities who receives the support.

C. ~~The family must not be subsidized~~ Families receiving a subsidy for the care of the individual ~~except for~~ an individual cannot also receive IFS funds. The following are NOT considered subsidies: Family Independence Temporary Assistance Program (FITAP) ~~or~~, Social Security (SS) benefits, ~~OCDD~~, flexible family fund, ~~Department of Children and Family Services adoption subsidy~~, and child support ~~are not considered subsidized care~~; requests may be approved on an individual basis for eligible individuals applicants receiving adoption subsidies.

D. Financial circumstances will be considered in the prioritization of individual and family support program funds ~~except that family~~. Family income will not disqualify applicants, but the applicant's ability to independently provide supports will be considered in funding decisions. Individual income will be considered for persons with intellectual/developmental disabilities who are establishing or maintaining supervised independent living in the community.

E. Requests for individual and family support funding may be approved for non-related persons when the applicant meets all other eligibility criteria, with and at least one of the following:

1. The relationship and/or living arrangement is ~~of~~ long-standing or ~~is~~ of a permanent (not temporary) duration;

2. The person providing care is not the guardian or legally responsible representative of the applicant-;

3. The applicant meets the Internal Revenue Service definition for a dependent for federal income tax purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:665 (April 2017), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:.

§1109. Request for Individual and Family Support Funding

A. The request for individual and family support funding can be made by any eligible individual with intellectual/developmental disabilities ~~or his/her,~~ the applicant's family or representatives, a support coordination agency, or designated facility personnel for individuals residing in ~~residential facilities~~ who desire to return to the community ~~and/or family.~~

B. All requests for individual and family support funding will go to the geographically appropriate LGE for determination.

C. ~~Individuals~~ Participants must have a current statement of approval (SOA) or meet criteria and be enrolled in EarlySteps

~~services to receive individual and family support funds unless situation meets exceptions set forth by OCDD.~~

~~D.~~ The developmental disabilities director may provide IFS funding to applicants who do not yet have, but are likely to receive, an SOA in emergent situations. The support coordinator or community services professional will assist the individual and/or family in completing the plan of support to request individual and family support funding.

1. The support coordinator or community services professional will complete the plan of support (or comprehensive plan of care) in cooperation with the applicant and his/her family and will provide information on available supports and the type of support requested. The individual and/or family will be considered the primary decision maker.

2. The LGE administering individual and family support (IFS) funds shall have the responsibility for determination of the prioritization for allocation of IFS funds.

3. ~~Requests for individual and family support funds will be made to the geographically appropriate LGE.~~ The developmental disabilities director or his/her designee will determine whetherif the request requires an immediateexpedited response. ~~This can also be accomplished through designation by the developmental disabilities director.~~

4. Individuals with intellectual/developmental disabilities, and/or their families, will be notified of and have the opportunity to present their requests to the individual and family support committee in person or by representation of their choice. ~~The support coordinator may represent the applicant and his/her family at their request.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:666 (April 2017), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 46:.

§1111. Plan of Support

A. There will be a single plan of support for each applicant for individual and family support funding, regardless of the funding mechanism or LGE delivering supports, ~~which will be developed on the most recently OCDD approved format.~~

B. The support coordinator or community services professional will meet with the individual ~~and/or~~ their family (if applicable) to generate an individualized plan of support specific to the individual's need for supports, ~~which will~~ include the following as defined by the OCDD: personal outcome goal(s), of the IFS being requested, exploration of readily

available resources available to the individual and/or family,
support requests to adequately justify and determine to provide
the IFS being requested, the extent and duration of support (s)
needed and the IFS service being requested, statement of the
total amount of funds to be expended, and the terms of service
delivery.

C. The plan of support will reflect the participant's current
life situation in relation to the IFS being requested and
pattern what goal the IFS funds requested will meet. The plan of
support needs and will be reviewed and revised at least annually
and also when the participant's life circumstances change, such
as the participant moves into a supported independent living
setting need for the IFS increases or begins to receive waiver
services, and/or when support needs change, such as when care
giver(s) health fails and increased personal care service are
needed decreases.

D. The plan of support will be completed prior to the
development of any form of agreement to provide individual and
family support funding (, except in the case of an emergent
situation as determined by the developmental disabilities
director) and the term of service will extend for the duration
of service.

E. The plan of support will specify the conditions ~~effor~~ use of service and reporting or documentary responsibilities of the participant and/or family receiving services.

F. The comprehensive plan of care generated by the ~~services~~support coordination ~~agents~~agency for waiver services may serve as the plan of support according to conditions set forth by the OCDD.

~~G. The plan of support will be reviewed at least annually by the LGE and in other circumstances as defined by OCDD.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:666 (April 2017), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 46:.

§1113. Prioritization for Individual and Family Support Funding

A. Each LGE will be responsible for the prioritization of all requests for individual and family support funding presented for a funding decision according to the following-:

1. Priority 1. Without requested supports, there is an immediate or potential threat of out-of-home placement or homelessness due to:

a. the ~~individual's~~individual and/or caregiver's emergent or acute medical care needs;

b. documented abuse or neglect of the individual requiring immediate action to preserve his/her health or safety;

c. death or inability of caregiver to continue care due to his/her own age or health exposing the individual and/or caregiver to substantial jeopardy;

d. caregiver's inability to continue care without assistance due to employment or other family obligations;

e. the individual's intense or frequent challenging behavioral needs requiring immediate action to preserve his/her health; or

f. substantial threat that the individual will experience a health crisis leading to death ~~or~~, homelessness, hospitalization, or placement in a nursing facility without the requested supports.

2. Priority 2. Supports are needed to prevent the individual's health from deteriorating or the individual from losing his/her independence or productivity, and/or to maintain the caregiver's ability to provide supports and a stable home environment in the foreseeable future.

3. Priority 3. Supports are needed to maintain the individual's health, independence or productivity, and/or to maintain the caregiver's long-term ability to provide supports in a stable home environment.

4. Priority 4. Supports are needed to enhance the individual's quality of life and enhance the family's ability to provide a stable home environment.

~~B. Individual and family support funding will be accessed only after it is determined and documented that natural, generic or other entitlement supports are not sufficient to meet the needs of the individual. The LCE and support coordinators will be knowledgeable of and utilize, where possible and feasible, existing services, programs and/or funding sources and work actively to educate applicants of such resources.~~

~~C.~~B. All individual and family support allocations will be evaluated at the time of the initial application for funding and at least annually thereafter to determine the continuing need for authorized supports. Documentation shall be provided with completion of the ~~OCDD~~ individual and family support prioritization instrument form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:667 (April 2017), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 46:.

§1115. Individual and Family Support Committee

A. Each LGE will maintain an individual and family support committee to be convened on a regular basis, but no less than quarterly, and on an as-needed basis, to serve as an advisory function to the LGE deliberations about allocation of funding.

B. The individual and family support committee shall be composed of the developmental disabilities director, or designee; the supervisor of the individual and family support program; the support coordinator/community support professional working with the applicant; at least one representative from an advocacy organization, ~~such as Families Helping Families~~; at least one representative ~~effrom~~ the regional advisory committee; and at least one adult participant or a parent ~~eof~~ a participant ~~receiving~~who has received supports through the individual and family support program. An adult participant or a parent may serve in a dual role on the committee.

C. The developmental disabilities director, or designee, shall report the activities of the individual and family support

committee to the regional advisory committee at least quarterly
~~to~~. The report shall include:

1. number of persons receiving individual and family support
funding;

2. types of supports provided;

3. total amount of funds budgeted and expended;

4. resolution of emergency funding requests and expenditures;

5. circumstances of imposition of fiscal controls imposed on
~~recipients of~~participants in individual and family support
funds, if any; ~~and~~

6. results of the quarterly supervisory review of at least 10
percent of active individual and family support cases
completed;

7. composition of the IFS Committee and the number of times
the committee met in the past quarter; and

8. number of IFS requests received by priority level and the
disposition of each request.

D. The developmental disabilities director, or designee, shall
maintain a record of the meetings of the individual and family
support committee ~~including~~which shall include, minimally, those
in attendance, requests discussed, and resolution of all

applications. This record will be made available for review byfor monitoring or auditing activity purposes as requested by the OCDD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:667 (April 2017), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:.

§1117. Allocation of Individual and Family Support Funding

A. Authorization for individual and family support funding will be made by the developmental disabilities director in cases determined to require immediate action. Factors which may influence allocation of funds under these circumstances include+, but are not limited to:

1. urgency of need;
2. probable consequences of failure to allocate funds and possible benefits;
3. adequacy of utilization of and exploration of alternative resources; and
4. resources readily available to the individual with intellectual/developmental disabilities and/or the family.

B. Authorization for funding in cases determined to not require immediate action by the developmental disabilities director will be prioritized by the LGE according to §1113 to determine the level of need ~~and service~~, IFS authorized and, any limitations, stipulations or conditions to be met by the individual or family to receive individual and family support ~~funding~~.

C. Actions which may be taken in response to applications for IFS shall be defined by the OCDD and shall include: approval, (all or part), approval pending funding, deferment, and/or denial.

D. The LGE shall notify ~~persons requesting services~~ applicants of the ~~decision to allocate individual and family support funds~~ action taken in response to the IFS application in writing within 10 working days of taking any action on the request.

1. Notification to applicants and or their ~~support coordinators will~~ families shall be ~~written and documented by~~ copy of their writing. The letter of notification ~~which~~ shall include notification of their right to appeal the ~~decision~~ action taken if their request was denied or funded in part. A copy of the letter will be provided to the applicant's support coordinator/community support professional and placed in the applicant's record.

2. Separate notifications will be made each time a request for supports is reviewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:667 (April 2017), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 46:.

§1119. Individual and Family Support Expenditures

A. Individual and family support expenditures will only be authorized through a plan of support which will:

1. be generated no more than 90 calendar days before the request for support is made;
2. extend for the duration of any agreement to utilize individual and family support funds;
3. define the specific type, and ~~duration and intensity~~ of supports needed; and
4. identify the agent(s) to provide the service and any special conditions associated with service delivery.

B. The developmental disabilities director, or designee, shall be responsible for expenditures in the individual and family support program, more specifically, the amount budgeted and the

number of people served, and shall ensure administration within the guidelines established by the OCDD.

C. The developmental disabilities director, or designee, shall be responsible for supplying written justification for IFS expenditures above \$15,000 for a single individual within a single fiscal year ~~from all sources~~ to the executive director of a LGE and receive approval from the executive director prior to expenditure of funds. Plans of support approved for less than this amount will not require such notification or approval. A copy of the letter of justification and notice of approval shall be maintained in the participant record.

D. The developmental disabilities director, or designee, shall be responsible for supplying written justification of expenditures outside guidelines established by the OCDD and/or that exceed an amount specified in the program manual to the executive director of a LGE, and receiving the executive director's approval, before funds are expended. Plans of support which are within program guidelines will not require such notification or approval. A copy of the letter of justification and notice of approval shall be maintained in the participant record.

E. Services in the individual and family support program are cost reimbursements and prior authorized. The developmental

disabilities director or designee may authorize a ~~one-time~~
~~expenditure~~expenditures for a payment prior to receipt of
service if documentation ~~which is~~ provided that justifies the
individual or family's ~~financial hardship and/or inability~~ to
provide the advance payment that is typically required for cost-
reimbursement individual agreements ~~is provided~~. Individual
and/or family reliance on FITAP, SS disability or SSI will be
adequate justification for ~~such expenditure.~~ prior payment.

F. Each participant record will include an expenditure recap
sheet, which details all individual and family support
expenditures, regardless of payment mechanism ~~and which provides~~
~~a contemporaneous record of expenditures.~~

G. Funds appropriated or allocated to the individual and family
support program cannot be used for salaries of civil service or
contract employees who coordinate and monitor the individual and
family support services and ~~the use of the funds or for~~ cannot be
used to fund other costs associated with administering this
program. All funds appropriated or allocated to the individual
and family support program ~~must~~ shall be spent on the direct
purchase of goods, supports or services to assist the individual
with ~~a~~ an intellectual/developmental disability and/or his/her
family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:668 (April 2017), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 46:.

§1121. Implementing the Plan of Support

A. The support coordinator, or community services professional in cooperation with the participant and the family when applicable, will implement the plan of support as approved.

B. The support coordinator or community services professional will serve as the primary resource to ~~individuals~~applicants with intellectual/developmental disabilities and/or their families in development and implementation of the plan of support.

C. ~~Individuals~~Participants and families receiving supports will be expected to assume personal responsibility for use of the individual and family support funds.

D. When participants have demonstrated the need for assistance in overseeing supports, which help maintain health, safety and protection from abuse, neglect or exploitation, the LGE will be responsible to provide active support to that individual and/or family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:668 (April 2017), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:.

§1123. Eligible Supports

A. ~~Individual~~ The individual and family support program supports are intended to maintain and/or improve maximum flexibility in meeting the needs of for eligible individuals participants with intellectual/developmental disabilities and their families, ~~which exceed those normally met by use of existing LGE funding and other resources of the LGE, family~~ meeting their needs to enable them to remain at home and community. be fully participating members of their communities. Because ~~every~~ each individual is unique, supports will be ~~unique~~ person-centered and will change with time and the circumstances of the individual and family needing supports.

1. Examples of eligible supports include, but are not limited to:

- a. special equipment/supplies;
- b. special nutrition/clothing;
- c. special therapies;
- d. -respite;

- e. medical expenses;
- f. medications;
- g. therapeutic services;
- h. personal care attendant;
- i. home modifications;
- j. crisis intervention;
- k. family training/therapies;
- l. homemaker services;
- m. vehicle modifications;
- n. recreation services;
- o. communication services;
- p. transportation;
- q. counseling services;
- r. home health services;
- s. support coordination;
- t. specialized utility costs;
- u. sitter services;
- v. equipment and supplies;
- w. adaptive equipment;

x. nutritional supplies;

y. personal assistance services;

z. companion/roommate services;

aa. _____special evaluations;

bb. _____therapeutic nursing services;

cc. _____family subsidy;

dd. _____vocational/employment supports;

ee. _____specialized diagnosis and

evaluation; and

ff. _____~~and dental/medical care.~~ not
~~otherwise available.~~

2. Individual and family support funds ~~will~~shall not supplant ~~other sources of funding. Eligible supports are limited to those for which an individual~~services from a home and community-based waiver, Medicaid State Plan, EarlySteps, Louisiana Rehabilitation Services, local education agency or family is not eligible through existing public or private programs or other funding sourcesMedicaid funded behavioral health.

3. Individual and family support funds can be used to supplement other sources of payment only when that funding is deemed by the developmental disabilities director to be

insufficient to meet the existing needs of the participant and is fully documented as such in the participant record.

4. Financial subsidy does not reflect a growth in family income, ~~it~~ and will not be used in calculations for eligibility for public entitlements, except for ineligibility to participate in the Supplemental Nutrition Assistance Program (SNAP), formerly known as the Food Stamp Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:668 (April 2017), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 46:.

§1125. Ineligible Supports

A. Supports ineligible for payment by individual and family support funding include, but are not limited to:

1. items or supports for which an individual or family is routinely eligible under existing programs, such as Medicaid state plan services, home and community-based waiver services, Medicaid State Plan, EarlySteps, Louisiana Rehabilitation Services, local educational organization, etc., education agency or Medicaid funded behavioral health unless there is sufficient documented justification that the specific needs of the

individual and/or family ~~exceed existing policy guidelines~~are
not met;

2. items or supports for which a school-aged (3-22 years) child is eligible as a "related service" under Public Law 94-142, ~~or, which an EarlySteps eligible child/family is entitled to receive as part of the EarlySteps system,~~ unless there is sufficient documentation of efforts to address the need through the child's individualized education program (IEP) ~~or IFSP conference,~~ and to pursue due process if warranted;

3. ~~payments to related persons or unrelated persons who reside in the home of the participant, unless such payment is a part of a contracted arrangement for persons living independently in the community,~~

4. ~~behavior management for school aged children, unless maladaptive behavior(s) will likely result in out of home placement in the absence of such supports,~~

5. ~~funding for supports and/or equipment for individuals with developmental disabilities when needed only for the care giver's health, unless, such requests are based on supporting the care giver's long term ability to maintain the participant in the home and community, and~~

~~6. funding for any costs associated with the participant's individual or family liability for employment of persons to provide individual and family support funded services, more specifically 3. payments made towards or payments made for FICA taxes, workman's compensation insurance, liability insurance, etc. by a participant or their family to insure workers in their home providing IFS services.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824 .

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:669 (April 2017), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 46:.

§1127. Payment Mechanisms

A. The developmental disabilities director, or designee, ~~shall~~may authorize ~~all~~ expenditures of individual and family support funds and shall have final discretion on the type of payment mechanism, with appropriate prior notifications to the executive director of a LGE as specified by the OCDD.

B. Individual and family support program supports may be provided through any legitimate and appropriate funding mechanism authorized by current Louisiana Department of Health (LDH) contracting or purchasing practices or the policies and

procedures established by a LGE. This may include, but not be limited to, the use of individual agreements for goods and services, purchase orders (integrated statewide information system mechanism) for purchase of goods, and contracts for supports with either individuals or external agencies.

C. Documentation will be required for all individual and family support funds expended. This may take the form of receipts for goods or services, time-sheets for service delivery, utility statements, etc.

D. When an individual receiving individual and family support services moves to a region served by a different LGE and the service is still needed at the new location, the LGEs will negotiate the continuation of the funding of the service in order to ensure continuity of service.

E. The ~~appropriate~~ support coordinator or community services professional will instruct the participant and/or his/her family on the means to document delivery of supports, including providing appropriate billing forms and/or special instructions, both at the point of initiation of supports and quarterly thereafter for the duration of service provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:669 (April 2017), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 46:.

§1129. Fiscal Control of Use of Individual and Family Support Funds

A. The plan of support for each ~~recipient of~~participant in individual and family support ~~funds~~ shall clearly reflect the intended utilization of supports and be specific to the type and level of support to be received; conditions of delivery of service; ~~and the frequency, and duration, and effectiveness of~~ the service.

B. The developmental disabilities director or designee shall be responsible for the appropriate use of individual and family support funds in cooperation with the support coordinator or community services professional to ensure that no support or service is funded, which is not clearly identified on an approved plan of support.

C. All individual and family support agreements will contain clear identification ~~of~~that any payroll and/or other taxes ~~are~~are the sole responsibility of the participant and not the LGE. No individual and family support sponsored reimbursement may be

used in any way to defer the ~~partieipant~~participant's responsibility for payroll tax payment or deferral.

D. All questions about payroll or other taxes or other fiscal responsibilities of participants of individual and family support funds are to be referred to tax specialists for advice and/or resolution of questions. No OCDD or LGE employee may answer participant questions about the legal obligations of the participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:669 (April 2017), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 46:.

§1131. Monitoring the Plan of Support

A. Support coordinators or community services professional will maintain at least quarterly contact with the participant, with documentation to the record, for the duration of supports; contact can be face-to-face or by telephone except that home or vehicle modification(s) will be viewed by the support coordinator ~~-~~ or community services professional to ensure the modifications are completed and accepted by the participant or his/her family prior to payment. Regardless of the manner of

monitoring, a record of monitoring activities shall be maintained in the participant record at the LGE office.

B. Active plans of support will be monitored for the duration of support provision; the participant record will clearly indicate the period during which monitoring will occur and the point at which monitoring can be terminated.

C. Monitoring of supports shall address fiscal issues of whether receipts satisfy and conform to the conditions of delivery of the plan of support. Processing of receipts and billing forms shall not be considered an adequate monitoring of delivery of support.

D. Monitoring of the plan of support will involve follow-up of questionable fiscal practices, including attempts to recoup inappropriate payment if necessary. Such instances will include, but not be limited to, when adequate receipts are not submitted, when eligibility is in question, or when the individual or family has demonstrated questionable compliance with program policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:670 (April

2017), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 46:.

§1133. Regional Program Monitoring and Reporting

A. Each LGE will conduct a supervisory review of at least 10 percent of ~~the~~active plans of support of individual and family support applicants and participants on an at least quarterly basis to ensure compliance with program guidelines and quality of service delivery ~~to persons requesting and receiving individual and family support program supports.~~ This internal review shall be the responsibility of the LGE and supervisory personnel as designated by the developmental disabilities director.

B. Each LGE will monitor individual and family support funds allocated for its use and report quarterly in the format required by the OCDD ~~central office~~. Periodic reports will be generated by the central data management system of the OCDD.

C. An annual review of LGE program operations will be completed by personnel of the OCDD ~~central office as designated by the assistant secretary~~, and each LGE will work cooperatively with officials of authorized state or federal agencies to satisfy audit or monitoring requirements as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:670 (April 2017), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 46:.

§1135. Terminations

A. Terminations occur when an individual and family support service has been approved and is then terminated for one of the reasons listed in Subsection B of this Section. This is not the same as a closure of request, which occurs before a service is approved.

B. Terminations may be initiated by the LGE or individual or family receiving the individual and family support service for ~~the~~ any of the following reasons:

1. death of the participant;
2. fraud;
3. relocation of the individual receiving supports outside of Louisiana;
4. termination of program;
- ~~5. deterioration of participant health and/or functioning;~~
- ~~6. confirmed abuse, neglect or exploitation of participant~~
~~(individual with developmental disabilities);~~

~~7. significant changes~~ 5. participant is placed in family constellation an ICF/IID or other institutional setting;

~~8. participant~~ 6. _____ at individual's request when the individual with intellectual/developmental disabilities is of majority and legally competent;

97. substantial changes occur and are not reported by the individual and failure to report such changes in individual and family circumstance/or family that results in the participant becoming eligible for support from sources other than the individual and family support program, ~~and the program is no longer the payor of last resort such as,~~ but which include, but are not limited to:

a. receipt of, or certification of, Medicaid services, ~~(new opportunities waiver, children's choice waiver, supports waiver, residential options waiver, early and periodic screening, diagnostics and treatment or EPSDT, personal care services or PCS, long term personal care services or LT PCS, community choices waiver, and adult day health care waiver),~~ EarlySteps;

b. ~~trust funds; and~~

b. receipt of Louisiana Rehabilitation Services

c. _____ change in financial circumstances; or

d. change in living arrangements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:670 (April 2017), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 46:.

§1137. Appeals

A. ~~Persons requesting~~ Applicants for and participants in the individual and family support funds and recipients of supports program who have been ~~denied supports or had supports approved in part, reduced, denied or terminated,~~ shall have access a right to appeal to the Division of Administrative Law- Louisiana Department of Health (LDH) section.

B. ~~Applicants and recipients of supports~~ participants in the individual and family support program will be informed of their right ~~to~~ to appeal and of the process ~~to~~ to appeal when a ~~determination of whether individual and family support funds will or will not be made available and at what level, and at termination of supports.~~ in writing.

C. All persons receiving an adverse eligibility determination shall have 30 calendar days from the date on the letter notifying the person of the adverse eligibility decision to

~~request an appeal. Appellants will have 30 days from the date of notification of the action to register an appeal of that action.~~

D. To ~~make~~request an appeal, ~~individuals~~participants can contact either their support coordinator, community services professional or the LGE office by telephone, in writing, or in person, for assistance.

E. The appellant, with or without the assistance of the support coordinator or community service professional, will be responsible for completing the appropriate documentation and forwarding it to the Division of Administrative Law-LDH section as set forth by the OCDD.

F. If the appeal is timely and services were in place at the time of the appeal, services will continue throughout the appeal process.

G. The LGE will cooperate with the Division of Administrative Law to provide information as appropriate to complete the appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:671 (April 2017), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 46:.

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 not have an adverse impact on family functioning, stability, and autonomy as described in R.S. 49:972.

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 not have an adverse impact on child, individual, and family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Statement

It is anticipated that the proposed Rule will not have a significant adverse effect on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable

statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

After considering House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of 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 about the proposed Rule to Tanya Murphy, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. Ms. Murphy is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is 4:30 p.m. on January 30, 2020.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA

70821-0629, however, such request must be received no later than 4:30 p.m. on January 10, 2020. If the criteria set forth in R.S. 49:953 (A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on Monday, January 27, 2020 in Room 173 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested parties should first call Allen Enger at (225) 342-1342 after January 10, 2020. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH

Secretary