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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) April, 20 19 *Louisiana Register* the document indicated above.

Office for Citizens with Developmental Disabilities

Office/Board/Commission promulgating this document

Rebekah E Gee MD, MPH Secretary

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

Department of Health

Department under which office/board/commission is classified

Carol Lee 225-342-5717 225-342-8823

(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

Department of Health, Office for Citizens with Developmental Disabilities

Short descriptive listing for this document to be used in the *Louisiana Register's* TABLE OF CONTENTS/INDEX

FFF.Rule.20190321

File name

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:

Cindy Rives
Signature of Agency Head or Designee

Cindy Rives, Undersecretary
Print Name and Title of Agency Head or Designee

CERTIFICATION OF AVAILABLE FUNDS

DOCUMENT # _____

ISIS AGENCY: I certify the availability of fiscal year _____ 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.

340 0030 2710 N/A 8000
AGENCY ORGANIZATION # OBJECT SUB-OBJECT REPORTING CATEGORY

NON-ISIS AGENCY: I certify the availability of fiscal year 2019 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:

Office for Citizens with Developmental Disabilities

Agency Name

P.O. Box 3117

Street Address or Post Office Box

Baton Rouge LA 70821-3117

City State Zip Code

[Signature]
Signature of Agency Head or Designee - Phone #

Lines/Other Charges _____ Typesetting \$ _____ TOTAL \$ _____

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:2032 (August 2005), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that the submission to CMS for review and approval is required.

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 no impact on family functioning, stability or 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 have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

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 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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on January 29, 2019.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629, fax to (225) 342-5568, or email to stanley.bordelon@la.gov; however, such request must be received no later than 4:30 p.m. on January 9, 2019. 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 January 24, 2019 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 persons should first call Stanley Bordelon at (225) 219-3454 after January 9, 2019. 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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Telemedicine Claim Submissions

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

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 18-19. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 18-19 for the state's administrative expense for promulgation of this proposed rule and the final rule.

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

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 18-19. It is anticipated that \$216 will be collected in FY 18-19 for the federal share of the expense for promulgation of this proposed rule and the final rule.

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

This proposed Rule amends the provisions governing telemedicine in order to revise the procedures for claim submissions to comply with recommendations by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services and align with current managed care organization practices. Implementation of this proposed Rule has no fiscal impact as this is a procedural change to the claims billing process only. It is anticipated that implementation of this proposed rule will not have economic costs, but may be beneficial to providers of telemedicine services in FY 18-19, FY 19-20 and FY 20-21 by ensuring that claim submissions procedures are consistent with current practices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1812#057

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT Rule

Department of Health Office for Citizens with Developmental Disabilities

Community and Family Support System—Flexible Family Fund (LAC 48:I.Chapter 161)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that, the Louisiana Department of Health, Office for Citizens with Developmental Disabilities (LDH-OCDD), ^{intends to amend} ~~intends to amend~~ ^{hereby amends}

LAC 48:II.Chapter 161 in the Community and Family Support System. The intent of the amendment is to set forth recommended changes as requested by the Developmental Disabilities Council. The proposed Rule adds two qualifying exceptionalities; allows for evaluations by a licensed professional for all qualifying exceptionalities; removes financial criteria that disqualifies a child who has a Medicaid waiver and whose parent earns 650 percent above poverty; removes requirement that children are actively attending approved educational setting; adds additional requirements prior to termination from the program; allows for the Flexible Family Fund (FFF) stipend to continue during appeals; adds additional FFF application methods and updates language from 'mental disability' to 'intellectual disability'.

Title 48

Public Health—Medical Assistance

Part II. Public Health

Subpart 11. Community and Family Support System

Chapter 161. Community and Family Support

System—Flexible Family Fund

§16101. Introduction

A. The first and primary natural environment for all people is the family. Children, regardless of the severity of their disability, need families and enduring relationships with adults in a nurturing home environment. As with all children, children with developmental disabilities need families and family relationships to develop to their fullest potential. Services for persons with developmental disabilities should be responsive to the needs of the individual and the individual's family, rather than fitting the person into existing programs. Flexible Family Fund assists families in keeping their child with a severe developmental disability at home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary. LR 18:186 (February 1992), repromulgated LR 33:1135 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary. LR 37:2584 (September 2011), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:

§16103. Definitions

Child—an individual under the age of 18.

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

Emotional Disturbance Severity Screening Instrument—a tool selected and used by the Local Governing Entity (LGE) providing behavioral health services for the purposes of determining if the individual meets severity criteria to receive the Flexible Family Fund for the exceptionality of emotional disturbance.

Exceptionality—all disabilities identified under Individuals with Disabilities Education Act (IDEA), including gifted and/or talented as defined in state law.

Family—the basic family unit consists of one or more adults and children related by blood, marriage or adoption, and who reside in the same household.

Flexible Family Fund (formerly Cash Subsidy Program)—a monetary stipend paid to families of eligible

children to assist in keeping their child with a severe disability at home.

Independent Education Evaluation (IEE)—an evaluation conducted by a qualified examiner not employed by the local education agency (LEA) responsible for the education of the child as a substitute for the evaluation of the child obtained by the LEA in the event a parent disagrees with the LEA's evaluation.

Individualized Education Program (IEP)—a written statement for a child with a disability that is developed, reviewed, and revised in accordance with 34 C.F.R. 300.324 through 34 C.F.R. 300.328.

Intellectual/Developmental Disabilities (IDD) Screening Checklist—a tool used by the Local Governing Entity (LGE) for applicants of Flexible Family Fund, who have a qualifying exceptionality, to determine if the child meets the definition of Developmental Disability in accordance with R.S. 28:451.2(12).

Intellectual/Developmental Disabilities Severity Screening Instrument—a tool used by the LGE for applicants for the Flexible Family Fund, who have a qualifying exceptionality and have met the criteria on the Intellectual / Developmental Disabilities (IDD) Screening Checklist, to screen the degree of limitation and impact of the child's developmental disability on the child's functioning.

Licensed Health Professional—a person credentialed to provide health services by a professional board established and approved by the state of Louisiana, including those boards which examine physicians, psychiatrists, psychologists, social workers, counselors, nurse practitioners, etc.

Local Education Agency (LEA)—a public board of education or other public authority legally constituted within Louisiana for administrative control and direction of or to perform a service function for public elementary or secondary schools in a city, parish, or other local public school district or other political subdivision. The term includes an education service agency and special schools and school districts as that term is used in R.S. 17:1945 and any other public institution or agency having administrative control and direction of a public elementary or secondary school.

Local Governing Entity (LGE)—a human services district or authority with local accountability and management of behavioral health, intellectual disability, and developmental disability services. There are 10 LGEs, each responsible for a geographic region within the state.

Office of Behavioral Health (OBH)—the office within the Department of Health charged with performing the functions of the state which oversee services and continuity of care for the prevention, detection, treatment, rehabilitation, and follow-up care of mental and emotional illness in Louisiana and performing functions related to mental health. It is also charged with performing the functions of the state relating to the care, training, treatment, and education of those suffering from substance-related or addictive disorders and the prevention of substance-related and addictive disorders and administering the substance-related and addictive disorders programs in the state.

Office for Citizens with Developmental Disabilities (OCDD)—the office within the Department of Health that is responsible for the programs and functions of the state

relating to the care, training, treatment, and education of people diagnosed with intellectual and developmental disabilities.

Qualifying Exceptionality—exceptionalities which have been identified as meeting the criteria to be considered for the Flexible Family Fund. A qualifying exceptionality is one of the following:

1. autism;
2. deaf-blindness (deaf and blind);
3. intellectual disability—severe;
4. intellectual disability—moderate with a behavior intervention or individual healthcare plan;
5. intellectual disability—mild with a behavior intervention or individual healthcare plan;
6. multiple disabilities;
7. orthopedic impairment;
8. other health impaired;
9. traumatic brain injury;
10. developmentally delayed for children ages three through eight years;
11. emotional disturbance (for Flexible Family Fund administered by the local governing entity providing behavioral health services);
12. EarlySteps eligibility for children until the age of three may also be considered for Flexible Family Fund.

Responsible Caregiver—a child's natural or adoptive mother or father, legal, testamentary, or dative tutor, or the person who is legally responsible, but not financially compensated, to act as caregiver for the primary care and management of the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1019 (May 2002), LR 33:1135 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2584 (September 2011), LR 40:1523 (August 2014), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:

§16105. Application Process

A. Applications for flexible family fund will be accepted by email, fax, mail and in person in the office of the local governing entity (LGE) for the region in which the child resides. There is no closing date for accepting applications.

B. The responsible caregiver is responsible for completing the application and submitting all required documentation related to the application.

C. Applications will be maintained on the waiting list by date/time order of application, only in the region in which the child lives; no child may be placed on a waiting list or receive a flexible family fund from more than one region or agency.

D. For the developmental disabilities exceptionalities, a completed application must be submitted with appropriate documentation for a qualifying exceptionality. Appropriate documentation includes one of the following:

1. the most recent, current within a year individualized family services plan (IFSP) (for EarlySteps eligibility for infants and toddlers until age three);

2. the most recent report, current within a year, from the Louisiana Department of Education (LDOE) special school programs pupil appraisal services showing the child's condition meets LDOE Bulletin 1508 criteria for one of the qualifying exceptionalities;

3. the most recent, current within a year, signed by school staff and parent/guardian individualized education plan (IEP) listing the child's exceptionality as one of the qualifying exceptionalities;

4. a report, current within a year, from a licensed health professional which states that a child's condition conforms to standards established in the LDOE Bulletin 1508 for one of the qualifying exceptionalities;

5. a current, within a year independent education evaluation (IEE) which states that a child's condition conforms to standards established in the LDOE Bulletin 1508 for one of the qualifying exceptionalities;

6. a current, within a year approved home study plan with a current within three years LDOE special school programs pupil appraisal services report showing the child's condition meets LDOE Bulletin 1508 criteria for one of the qualifying exceptionalities; or

7. an annual individual plan, current within a year, signed by school staff and parent/guardian, listing the child's exceptionality, created by schools approved by the LDOE to provide educational services to children with one of the qualifying exceptionalities, e.g., The school choice program for certain students with exceptionalities; or

E. For the exceptionality of emotional disturbance, a completed application must be submitted with the appropriate documentation of an emotional disturbance. Appropriate documentation includes one of the following:

1. a current treatment plan from a licensed community behavioral health center or evidence of an interagency service coordination process;

2. the most recent report, current within a year, from the LDOE special school programs pupil appraisal service showing the child's condition meets LDOE Bulletin 1508 criteria for emotional disturbance;

3. the most recent, current within a year, signed by school staff and parent/guardian IEP listing the child's exceptionality as emotional disturbance or its equivalent;

4. a report, current within a year, from a licensed health professional which states that a child's condition conforms to standards established in the LDOE Bulletin 1508 for emotional disturbance or its equivalent;

5. a current, within a year IEE which states that a child's condition conforms to standards established in the LDOE Bulletin 1508 for emotional disturbance or its equivalent;

6. a current, within a year approved home study plan with a current within three years LDOE special school programs pupil appraisal services report showing the child's condition meets LDOE Bulletin 1508 criteria for emotional disturbance or its equivalent; or

7. for a student who has been evaluated by a LEA, determined to have an exceptionality of emotional disturbance, and is deemed eligible to participate in the school of choice program for certain students with exceptionalities, an IEP or a services plan for any service in accordance with 34 CFR 300.37 or a nonpublic school

created plan resulting from a determination of the evaluation of the student by a LEA that the student requires services for emotional disturbance.

F. The responsible caregiver shall provide appropriate documentation of a qualifying exceptionality annually in order for the child to maintain eligibility for the flexible family fund waiting list.

G. A new application can be submitted at any time a flexible family fund is terminated or denied for any reason other than exceeding the eligible age for participation in the flexible family fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:862 (July 1997), LR 28:1020 (May 2002), LR 33:1136 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2585 (September 2011), LR 40:1523 (August 2014), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:

§16107. Determining Children Eligible for the Flexible Family Fund

A. The local governing entity (LGE) shall be responsible for determination of eligibility of all applicants for the flexible family fund for which they have responsibility.

B. To be found eligible for the flexible family fund on the basis of a qualifying intellectual/developmental disability exceptionality, four criteria must be satisfied:

1. A complete, signed application must be submitted;
2. The qualifying documentation must be submitted;
3. The child must meet the established criteria on the intellectual/developmental disabilities (IDD) screening checklist; and

4. The child must meet the established level of severity as measured by the intellectual/developmental disabilities severity screening instrument that is specified in the LGE's policy manual.

C. To be found eligible for the flexible family fund on the basis of the qualifying exceptionality of emotional disturbance, the following criteria must be satisfied:

1. a complete, signed application must be submitted;
2. the qualifying documentation must be submitted; and

3. the child must meet the established level of severity, specific to the exceptionality of emotional disturbance as measured by the emotional disturbance severity screening instrument that is specified in the LGE's policy manual.

D. A redetermination for eligibility will occur annually.

E. If at any time during the initial determination of eligibility, the responsible caregiver requests a re-evaluation by the local education agency (LEA) or licensed health provider of the child's exceptionality, the eligibility determination process will be held open for the re-evaluation plus 10 working days. Upon a determination of eligibility, flexible family funds will begin in the month that the next opportunity becomes available.

F. If at any time during the annual determination of eligibility, the responsible caregiver requests a re-evaluation by the LEA or licensed health provider, the child will

maintain his or her slot for flexible family funds, but the monthly stipend will be put on hold until the re-evaluation becomes available plus 10 working days. Upon a determination of eligibility, flexible family funds will resume in the month the determination is made. Upon determination of ineligibility, flexible family fund will be terminated according to §16111, Terminations.

G. Families with adopted children may also be eligible to participate in the flexible family fund. Families with adopted children who receive a specialized adoption subsidy are not eligible to participate in the flexible family fund; families who have more than one child who are eligible to participate in the Flexible family fund will be eligible for the flexible family fund amount for each qualifying child.

H. Children who receive a home and community-based services waiver are eligible to participate in the flexible family fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:186 (February 1992), amended LR 23:863 (July 1997), LR 28:1020 (May 2002), LR 33:1136 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2586 (September 2011), LR 40:1523 (August 2014), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:

§16109. Payment Guidelines

A. The amount of the flexible family fund shall be \$258 monthly to families of eligible children with severe disabilities to assist them in keeping their child at home; families may be asked to complete a survey periodically indicating how the flexible family funds are used to assist in keeping their child at home.

B. The termination date for a child attaining age 18 years shall be the last day of the birthday month.

C. If for any reason a recipient receives excess flexible family funds, the agency may follow-up with recoupment of funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997), LR 28:1021 (May 2002), LR 33:1137 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2587 (September 2011), LR 40:1524 (August 2014), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:

§16111. Terminations

A. Reasons for termination may include the following:

1. the responsible caregiver establishes residency or domicile outside Louisiana;
2. family requests termination of the flexible family fund stipend;
3. child is placed into a subsidized living setting or resides in a school away from the home or in another state;
4. death of the child;
5. fraud;
6. termination or limitation of funding of the program;

7. failure to comply with the provisions of the individual agreement or the flexible family fund, including the requirement to maintain quarterly contact with the LGE administering the flexible family fund and the requirement to provide required documentation;

8. child's exceptionality or degree of severity no longer meets eligibility criteria; or

9. child attains age 18 years;

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:864 (July 1997), LR 28:1022 (May 2002), LR 33:1137 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2587 (September 2011), LR 40:1524 (August 2014), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:

§16113. Ongoing Monitoring

A. The responsible caregiver is responsible for maintaining contact with the LGE administering the flexible family fund at least every 90 days to verify that the child is in the home and the conditions of the individual agreement and flexible family fund are being met.

B. Such quarterly contact shall be accepted by mail, email, fax, face-to-face meetings and telephone provided the responsible caregiver attests that the conditions of eligibility continue to be in effect. Failure to report significant changes in the child's status as described in §16111 may result in disqualification of the child to participate in the flexible family fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February 1992), amended LR 23:865 (July 1997), LR 28:1022 (May 2002), LR 33:1137 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2587 (September 2011), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:

§16115. Appeals

A. All persons receiving an adverse eligibility determination shall have the right to request a fair hearing from the Division of Administrative Law. Upon being terminated from Flexible Family Fund, the family will receive written notification of closure. The closure letter will include information about their right of appeal and the process to make an appeal at the point of initial eligibility determination and at termination of a Flexible Family Fund for any reason other than exceeding the eligible age for participation in the program. Flexible Family Fund stipends will continue for the duration of any appeal proceeding, unless a recipient is terminated for exceeding the eligible age for participation in the program.

B. The local governing entity (LGE) will prepare a summary of evidence upon being notified of an appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary and the Department of Social Services, Office of the Secretary, LR 18:188 (February

1992), amended LR 23:865 (July 1997), LR 28:1022 (May 2002), LR 33:1137 (June 2007), amended by the Department of Health and Hospitals, Office of the Secretary and the Department of Children and Family Services, Office of the Secretary, LR 37:2587 (September 2011), amended the Department of Health, Office for Citizens with Developmental Disabilities, LR 45:

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. 49:973.

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 Analysis

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 HCR 170 of the 2014 Regular Legislative Session, it is anticipated that the proposed Rule change will have no effect on the:

1. staffing level requirements or qualifications required to provide the same level of service;
2. total direct and indirect effect on the cost to the provider to provide the same level of service; or
3. overall effect on the ability of the provider to provide the same level of service.

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. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is 4:30 p.m. on January 29, 2019.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary Attn: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629, fax to (225) 342-5568, or email to stanley.bordelon@la.gov; however, such request must be received no later than 4:30 p.m. on January 9, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9 AM on Friday, January 25, 2019 in Room 118 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 persons should first call Stanley Bordelon at (225) 219-3454 after January 9, 2019.

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.

Cindy Rives
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Community and Family Support System—Flexible Family Fund

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

The proposed rule change is anticipated to increase expenditures for the Office of Citizen with Developmental Disabilities (OCDD) by approximately \$1,171 in FY 19 for the publication of the proposed rule.

The Flexible Family Fund (FFF) Program provides monthly stipends on a first-come, first-serve basis to families of eligible children with severe developmental disabilities from birth to age 18 to help their families meet extraordinary costs.

This rule change is being proposed to implement changes to the Flexible Family Fund (FFF) Program as suggested by the Developmental Disabilities Council. Specifically, the proposed rule adds that children with a mild or moderate disability with a behavior or health plan may qualify for benefits; allows for evaluations by a licensed professional for all qualifying exceptionalities; removes the financial criteria that disqualifies a child who has a Medicaid waiver and whose parents earn 650% above poverty; removes the requirement that children are actively attending an approved educational setting; adds that the department should attempt to contact a recipient 3 times prior to termination from the program; allows for the FFF stipend to continue during appeals; and provides clarifying language and technical updates.

Although this rule changes could result in additional individuals meeting the eligibility requirements for the FFF program, it is not anticipated that OCDD will incur any additional costs or savings as a result of this rule change. FFF is not an entitlement program. Each year, OCDD receives a general fund appropriation for the FFF program. Distributions of these funds are provided to families on a first-come, first-serve basis, and OCDD's expenditures for this program cannot exceed the amount appropriated to it. To the extent that additional funds are appropriated to the FFF program, it is anticipated that more recipients will receive a stipend as a result of the proposed rule change.

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

Implementation of the proposed rule will have no 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)

The proposed rule changes may have an economic benefit to certain families with children with severe developmental disabilities. Families previously ineligible for FFF financial assistance may now be eligible for benefits because the proposed amendments create additional qualifying exceptionalities and eliminate financial criteria for all families.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Julie Foster Hagan
Assistant Secretary
1812#042

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Professional Counselors Board of Examiners

Requirements, Fees, and Exemptions
(LAC 46:LX.705, 801, 803, 901 and 1701)

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S. 49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors Board of Examiners proposes to clarify licensure requirements, fees and exemptions.

The Louisiana Licensed Professional Counselors Board of Examiners hereby gives Notice of Intent to amend Chapters 7-9 and 17 for publication in the December 20, 2018 edition of the *Louisiana Register*.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS REVISED

Part LX. Licensed Professional Counselors Board of Examiners

Subpart 1. Licensed Professional Counselors

Chapter 7. Application and Renewal Requirements for Licensed Professional Counselors

§705. Renewal

A. - D.1. ...

2. Application for renewal after 90 days from the date of licensure lapse will not be considered for renewal; the individual must apply under the current licensure and/or privileging guidelines and submit recent continuing education hours (CEHs) as part of application for licensure or privileging designation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:719 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:

Chapter 8. Licensed Professional Counselor Supervisors

§801. Licensed Professional Counselor Supervisor Requirements

A. -A.1.a. ...

b. Counseling Practice. The supervisor must have been practicing mental health counseling minimum of three years post licensure experience.

c. Training in supervision must be consistent with ACA, LCA, NBCC or CACREP standards, and completed within five years of application for board-approved

Carol Lee

From: APA - Senate Health and Welfare <apa.s-h&w@legis.la.gov>
Sent: Wednesday, February 13, 2019 2:19 PM
To: Stanley Bordelon
Cc: APA - Senate Health and Welfare
Subject: Request received

ELECTRONIC RECEIPT BY COMMITTEE

Your Administrative Procedure Act (APA) submission has been received by the Committee on Health and Welfare, Louisiana Senate.

(Please do not respond to this automatically generated response.)

If your communication is unrelated to an APA required submission, it has been deleted.

If you would like to contact your state legislator, click here <https://www.legis.la.gov/legis/HowDoI2.aspx?p=3#11> to determine the name of your state representative and state senator and to find their contact information.

If you would like to contact members of a particular committee, click here for House Committees <https://www.legis.la.gov/legis/Committees.aspx?c=H> and here for Senate Committees <https://www.legis.la.gov/legis/Committees.aspx?c=S>. The name and contact information of all committee members is available at these sites.

Carol Lee

From: APA - President <APA.senatepresident@legis.la.gov>
Sent: Wednesday, February 13, 2019 2:19 PM
To: Stanley Bordelon
Cc: APA - Request Senate
Subject: Request received

ELECTRONIC RECEIPT FROM THE OFFICE OF THE PRESIDENT

Your Administrative Procedure Act (APA) submission has been received by the Office of the President, Louisiana Senate.

(Please do not respond to this automatically generated response.)

If your communication is unrelated to an APA required submission, it has been deleted.

If you would like to contact your state legislator, click here <https://www.legis.la.gov/legis/HowDoI2.aspx?p=3#11> to determine the name of your state representative and state senator and to find their contact information.

If you would like to contact members of a particular committee, click here for House Committees <https://www.legis.la.gov/legis/Committees.aspx?c=H> and here for Senate Committees <https://www.legis.la.gov/legis/Committees.aspx?c=S>. The name and contact information of all committee members is available at these sites.

Carol Lee

From: APA - Speaker <apa.housespeaker@legis.la.gov>
Sent: Wednesday, February 13, 2019 2:19 PM
To: Stanley Bordelon
Cc: APA - HOUSE SPEAKER
Subject: Request received

ELECTRONIC RECEIPT FROM THE OFFICE OF THE SPEAKER

Your Administrative Procedure Act (APA) submission has been received by the Office of the Speaker, Louisiana House of Representatives.

(Please do not respond to this automatically generated response.)

If your communication is unrelated to an APA required submission, it has been deleted.

If you would like to contact your state legislator, click here <https://www.legis.la.gov/legis/HowDoI2.aspx?p=3#11> to determine the name of your state representative and state senator and to find their contact information.

If you would like to contact members of a particular committee, click here for House Committees <https://www.legis.la.gov/legis/Committees.aspx?c=H> and here for Senate Committees <https://www.legis.la.gov/legis/Committees.aspx?c=S>. The name and contact information of all committee members is available at these sites.

Carol Lee

From: APA - House Health and Welfare <apa.h-hw@legis.la.gov>
Sent: Wednesday, February 13, 2019 2:19 PM
To: Stanley Bordelon
Subject: Request received

ELECTRONIC RECEIPT BY COMMITTEE

Your Administrative Procedure Act (APA) submission has been received by the **Committee on Health & Welfare, Louisiana House.**

(Please do not respond to this automatically generated response.)

If your communication is unrelated to an APA required submission, it has been deleted.

If you would like to contact your state legislator, click here <https://www.legis.la.gov/legis/HowDoI2.aspx?p=3#11> to determine the name of your state representative and state senator and to find their contact information.

If you would like to contact members of a particular committee, click here for House Committees <https://www.legis.la.gov/legis/Committees.aspx?c=H> and here for Senate Committees <https://www.legis.la.gov/legis/Committees.aspx?c=S>. The name and contact information of all committee members is available at these sites.