



# State of Louisiana

Department of Health  
Office for Citizens with Developmental Disabilities

March 8 2017

## MEMORANDUM

**TO:** The Honorable John Bel Edwards, Governor, State of Louisiana  
The Honorable John A. Alario, Jr., President, Louisiana Senate  
The Honorable Taylor F. Barras, Speaker of the House  
The Honorable Jeff Landry, Attorney General, State of Louisiana  
The Honorable Fred H. Mills, Jr., Senate Committee on Health and Welfare  
The Honorable Frank A. Hoffman, Chairman, House Committee on Health and Welfare  
The Honorable Eric LaFleur, Chairman, Senate Finance Committee  
The Honorable Cameron Henry, Chairman, House Appropriations Committee

**FM:** Rebekah E. Gee MD, MPH

**RE:** Oversight Report for Office for Citizens with Developmental Disabilities Proposed Rule Making

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we submit the attached rulemaking documents for the Louisiana Department of Health (LDH) Office for Citizens with Developmental Disabilities (OCDD) on Individual and Family Support.

The Department published a notice of intent on this proposed rule in the January 20, 2017 issue of the Louisiana Register. A public hearing was held on February 24, 2017. Attached you will find a summary of written and public testimony as well as our responses to those providing comments.

The Department anticipates adopting this notice of intent as a final rule in the April 20, 2017 issue of the Louisiana Register.

The following documents are attached:

- 1) A copy of the original notice of intent;
- 2) A copy of the cover page of the Fiscal and Economic Impact Statement;
- 3) The public hearing certification; and
- 4) Attendance roster.
- 5) Summary of Written and Public Testimony and Comments
- 6) Response Letters to Jefferson Parish Human Services Authority and Developmental Disabilities Council

BJ

**cc:** Mark A. Thomas, Assistant Secretary, Office for Citizens with Developmental Disabilities  
Anita Dupuy, Legislative Liaison, Louisiana Department of Health  
Beth Jordan, Rulemaking Liaison, Office for Citizens with Developmental Disabilities

### Public Hearing

A public hearing on this proposed Rule is scheduled for Monday, February 27, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E Gee MD, MPH  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pharmacy Benefits Management Program

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

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$10,746 for FY 16-17, \$69,209 for FY 17-18 and \$73,846 FY 18-19. It is anticipated that \$4,104 (\$2,052 SGF and \$2,052 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 and 18-19.

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

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$19,062 for FY 16-17, \$119,578 for FY 17-18 and \$127,590 for FY 18-19. It is anticipated that \$2,052 will be expended in FY 16-17 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 and 18-19.

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

This proposed Rule amends the provisions governing the reimbursement methodology in the Pharmacy Benefits Management Program to revise the reimbursement methodology, and to include federal upper limits (FUL), new copayment exemptions and over-the-counter medications added for expansion benefits pursuant to CMS recently released regulations. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures for pharmacy payments by approximately \$33,912 for FY 16-17, \$188,787 for FY 17-18 and \$201,436 for FY 18-19.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will no effect on competition and employment.

Jen Steele  
Medicaid Director  
1701#065

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health Office for Citizens with Developmental Disabilities

#### Individual and Family Support Program (LAC 48:IX.Chapter 11)

The Louisiana Department of Health (LDH), Office for Citizens with Developmental Disabilities (OCDD), pursuant to Act 378 of the 1989 Regular Legislative Session as contained in R.S. 28:824, is authorized to establish Louisiana's community and family support system. The individual and family support program is designed to meet those needs of individuals with developmental disabilities, which exceed those normally met by existing resources, both entitlements and those occurring naturally in the individual's family and community. The intent of this Rule is to establish program regulations for the individual and family support program to ensure proper utilization of program funds and service delivery.

#### Title 48

#### PUBLIC HEALTH—GENERAL

#### Part IX. Developmental Disabilities Services System

#### Chapter 11. Individual and Family Support Program

#### §1101. Purpose

A. The individual and family support program is designed to meet those needs of individuals with developmental disabilities, which exceed those normally met by existing resources, both entitlements and those occurring naturally in the individual's family and community.

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

1. to establish or maintain a quality of life for individuals with 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 developmental disabilities and their families to existing supports and resources and to supplement those supports as necessary to maintain 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:

#### §1103. Definitions

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

*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 for developmental disabilities services, through a statement of approval (SOA) to participate in developmental disabilities services as part of the single point of entry (SPOE) process in most current use as established by the OCDD.

*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 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 Department of Health, which has the responsibility for developing, evaluating and guiding programs and supports for Louisiana's citizens with developmental disabilities.

*Plan of Support*—the individualized plan for provision of supports for individuals and families developed utilizing the most recently approved format by OCDD.

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

*Support Coordinator*—the person responsible for case coordination for an individual with 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:

#### **§1105. Participant Records**

A. Each local governing entity (LGE) will maintain a single participant record for each applicant or recipient of individual and family support funding, which will comply with all Department of Health (LDH), Office for Citizens with Developmental Disabilities (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.

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 OCDD of the confidentiality of and access to participant records and the time-periods to retain those records.

C. Necessary 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, these documents will be maintained in the records in compliance with requirements of the LDH, OCDD, and auditing authorities, and shall, at a minimum, include:

1. justification to 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 the executive director of a LGE for approval of an exception for use of funds not authorized by 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 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:

#### **§1107. Eligibility**

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

1. The individual lives in Louisiana and is approved to participate in 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 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 developmental disabilities who receives the support.

C. The family must not be subsidized for care of the individual except for 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 receiving adoption subsidies.

D. Financial circumstances will be considered in the prioritization of individual and family support program funds except that 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 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 at least one of the following.

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

2. The person providing care is not the guardian 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:

#### **§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 developmental disabilities or his/her family or representatives, support coordination agent 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 must have a current statement of approval (SOA) to receive individual and family support funds unless situation meets exceptions set forth by OCDD.

D. The support coordinator will assist the individual and/or family in completing the plan of support to request individual and family support funding.

1. The support coordinator will complete the plan of support 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 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 will determine whether the request requires an immediate response. This can also be accomplished through designation by the developmental disabilities director.

4. Individuals with developmental disabilities or their families will 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:

#### **§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 will meet with the individual and/or family to generate an individualized plan of support specific to the individual's need for supports, to include the following as defined by OCDD: personal outcome goal(s), exploration of resources available to the individual and/or family, support requests to adequately justify and determine the extent and duration of support(s) needed and 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 and pattern of support needs and will be revised at least annually and when the participant's life circumstances change, such as the participant moves into a supported independent living setting 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.

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 of 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 service coordination agents 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:

#### **§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 out-of-home placement or homelessness due to:

a. the individual'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 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 LGE 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. 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:

#### **§1115. Individual and Family Support Committee**

A. Each LGE will maintain an individual and family support committee to be convened on a regular basis, no less than quarterly, and on an as-needed basis to serve an advisory function to 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 working with the applicant; at least one from an advocacy organization, such as Family Helping Families; at least one representative of the regional advisory committee; and at least one adult participant or a parent or a participant receiving 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 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 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.

D. The developmental disabilities director, or designee, shall maintain a record of the meetings of the individual and family support committee including, minimally, those in attendance, requests discussed, and resolution of all applications. This record will be made available for review by monitoring or auditing activity as requested 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:

#### **§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:

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 available to the individual with 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 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 shall be defined by the OCDD and shall include: approval, approval pending funding, deferment, and denial.

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

1. Notification to applicants and their support coordinators will be written and documented by copy of the letter of notification which shall include notification of their right to appeal the decision.

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:

#### **§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 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, 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 expenditures above \$15,000 for a single individual within a single fiscal year from all sources to the executive director of a LGE prior to expenditure of funds. Plans of support approved for less than this amount will not require such notification. A copy of the letter of justification 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 to the executive director of a LGE before funds are expended. Plans of support which are within program guidelines will not require such notification. A copy of the letter of justification shall be maintained in the participant record.

E. The developmental disabilities director may authorize a one-time expenditure for a payment prior to receipt of service if documentation which justifies the individual or family's financial hardship and/or inability to provide the advance payment 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.

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 other costs associated with administering this program. All funds appropriated or allocated to the individual and family support program must be spent on the direct purchase of goods, supports or services to assist the individual with a 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:

#### **§1121. Implementing the Plan of Support**

A. The support coordinator, in cooperation with the participant, will implement the plan of support as approved.

B. The support coordinator will serve as the primary resource to individuals with disabilities or their families in development and implementation of the plan of support.

C. Individuals 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 maintain health, safety and protection from abuse, neglect or exploitation, the

LGE will be responsible to provide active support to that individual 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:

#### **§1123. Eligible Supports**

A. Individual and family support program supports are intended to maintain maximum flexibility in meeting the needs of eligible individuals with developmental disabilities and their families, which exceed those normally met by use of existing LGE funding and other resources of the LGE, family and community. Because every individual is unique, supports will be unique 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;
- ff. and dental/medical care not otherwise available.

2. Individual and family support funds will not supplant other sources of funding. Eligible supports are limited to those for which an individual or family is not eligible through existing public or private programs or other funding sources.

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 existing needs and is fully documented as such in the participant record.

4. Financial subsidy does not reflect a growth in family income; it 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:

**§1125. Ineligible Supports**

A. Supports ineligible for payment by individual and family support funding include:

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, local educational organization, etc., unless there is sufficient documented justification that the specific needs of the individual or family exceed existing policy guidelines;

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 FICA taxes, workman's compensation insurance, etc.

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:

**§1127. Payment Mechanisms**

A. The developmental disabilities director, or designee, shall 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 Department of Health contracting or purchasing practices or the policies and procedures established by a LGE. This may include 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 will instruct the participant 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:

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

A. The plan of support for each recipient of 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, duration, and effectiveness of the service.

B. The developmental disabilities director shall be responsible for the appropriate use of individual and family support funds in cooperation with the support coordinator 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 any payroll and/or other taxes as 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 participant 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 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:

**§1131. Monitoring the Plan of Support**

A. Support coordinators 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. 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:

### **§1133. Regional Program Monitoring and Reporting**

A. Each LGE will conduct a supervisory review of at least 10 percent of the 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 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:

### **§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 in family constellation;
8. participant request when the individual with developmental disabilities is of majority and legally competent;
9. substantial changes and failure to report such changes in individual and family circumstance 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 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);

b. trust funds; and

c. 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:

### **§1137. Appeals**

A. Persons requesting individual and family support funds and recipients of supports who have been denied supports or had supports reduced or terminated, have access to the Division of Administrative Law-Louisiana Department of Health (LDH) section.

B. Applicants and recipients of supports will be informed of their right of appeal and of the process of 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.

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

D. To make an appeal, individuals can contact either their support coordinator 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, 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. 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:

#### **Family Impact Statement**

It is anticipated that the proposed action will have no known or foreseeable impact on the:

1. stability of the family;
2. authority and rights of parents regarding the education and supervision of their children;
3. functioning of the family;
4. family earnings and family budget;
5. behavior and personal responsibility of children; or
6. ability of the family or a local government to perform the functions as contained in the proposed action.

#### **Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:



1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits; or
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to Mark A. Thomas, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. Mr. Thomas is responsible for responding to inquiries regarding this proposed Rule. The deadline for all written comments is 4:30 p.m. on the next business day following the public hearing.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for February 24, 2017 at 9:30 a.m., in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Individual and Family Support Program**

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

The proposed rule change intends to codify both the existing policy and practice for implementation of the Individual and Family Support (IFS) Program. The proposed rule amends the Louisiana Administrative Code Title 48, Part IX, Developmental Disabilities Services, to add Chapter 11: Individual and Family Support Program.

The IFS Program is designed to meet those needs of individuals with developmental disabilities, which exceed those normally met by existing resources, including both entitlements and those occurring naturally in the individual's family and community. The proposed rule clarifies existing practice to establish in rule the definitions, records and processes, such as eligibility, individual planning, program monitoring and oversight, funding prioritization and allocation, expenditures, and payment mechanisms, to ensure proper utilization of program funds and service delivery. There is no anticipated programmatic or fiscal impact to the Louisiana Department of Health or the Local Governing Entities other than the cost of rule promulgation for FY 2016-17. The estimated cost of rulemaking is \$5,112 from the State General Fund for both the

proposed rule and the final rule. These costs are routinely included in OCDD's annual operating budget.

#### **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 for FY 2016-17.

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

It is anticipated that implementation of this proposed rule will have no economic cost or benefits to directly affected persons or non-governmental groups for FY 2016-17.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

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

Mark A. Thomas  
Assistant Secretary  
1701#040

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Public Safety and Correction Liquefied Petroleum Gas Commission**

#### **Broker Permits and General Requirements (LAC 55:IX.Chapter 1)**

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, in accordance with R.S. 49:953(B), of the Administrative Procedure Act, to amend, supplement and expand portions of and readopt LAC 55:I.Chapter 1 as authorized by R.S. 40:1846.

In particular, notice is given to amend LAC 55:IX.107 to require a permit for third party brokers who are instrumental in the sale and service of liquefied petroleum. In addition, filing fees for all applications will be \$150.

The text of this proposed Rule may be viewed in the Emergency Rule section of this edition of the *Louisiana Register*.

#### **Family Impact Statement**

The proposed Rule will not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children.

Local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1730.23.

#### **Poverty Impact Statement**

The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the LA R.S. 49:973. The agency has considered economic welfare factors





**State of Louisiana**  
Department of Health  
Office for Citizens with Developmental Disabilities

**PUBLIC HEARING CERTIFICATION**

**Public Hearing:**

**Date:** February 24, 2017

**Time:** 9:30 a.m.

**Place:** Louisiana Department of Health

Bienville Building, Room 118

628 North 4<sup>th</sup> Street

Baton Rouge, LA 70802

RE: Proposed Rule: – individual and Family Support

Office for Citizens with Developmental Disabilities, Louisiana Department of Health

**CERTIFICATION**

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda of the public hearing conducted on February 24, 2017 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in cursive script, reading "Beth Jordan", written in dark ink.

Beth Jordan

Rulemaking Manager

Office for Citizens with Developmental Disabilities

2-24-17

Date

BJ



**Louisiana Department of Health  
Office for Citizens with Developmental Disabilities  
Public Hearing Agenda**

February 24, 2017

9:30 a.m.

Conference Room 118 of the Bienville Building

I. Notice of Intent

Individual and Family Support  
(LAC 48: IX Chapter 11)

*Louisiana Register* January 20, 2017

State of Louisiana  
Department of Health  
628 North 4<sup>th</sup> Street  
Baton Rouge, LA 70802



**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

Person Preparing Statement:	<u>Beth Jordan</u>	Department:	<u>Louisiana Department of Health</u>
Phone:	<u>(225) 342-5717</u>	Office:	<u>Office for Citizens with Developments Disabilities</u>
Return Address:	<u>P.O. Box 3117 Baton Rouge, LA 70821</u>	Rule Title:	<u>Individual and Family Support Program</u>
		Date Rule Takes Effect:	<u>April 20, 2017</u>

SUMMARY  
(Use complete sentences)

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

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

The proposed rule change intends to codify both the existing policy and practice for implementation of the Individual and Family Support (IFS) Program. The proposed rule amends the Louisiana Administrative Code Title 48, Part IX, Developmental Disabilities Services, to add Chapter 11: Individual and Family Support Program.

The IFS Program is designed to meet those needs of individuals with developmental disabilities, which exceed those normally met by existing resources, including both entitlements and those occurring naturally in the individual's family and community. The proposed rule clarifies existing practice to establish in rule the definitions, records and processes, such as eligibility, individual planning, program monitoring and oversight, funding prioritization and allocation, expenditures, and payment mechanisms, to ensure proper utilization of program funds and service delivery. There is no anticipated programmatic or fiscal impact to the Louisiana Department of Health or the Local Governing Entities other than the cost of rule promulgation for FY 2016-17. The estimated cost of rulemaking is \$5,112 from the State General Fund for both the proposed rule and the final rule. These costs are routinely included in OCDD's annual operating budget.

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 for FY 2016-17.

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

It is anticipated that implementation of this proposed rule will have no economic cost or benefits to directly affected persons or non-governmental groups for FY 2016-17.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

  
Signature of Agency Head or Designee

Mark A. Thomas, Assistant Secretary  
Office for Citizens with Developmental Disabilities

1-6-17  
Date of Signature

  
Legislative Fiscal Officer or Designee

1/9/17  
Date of Signature



LDH/OCDD PUBLIC HEARING

Hearing Topic: Individual and Family Support  
Place: Room 118, Bienville Building, Department of Health and Hospitals, 628 North 4<sup>th</sup> Street, Baton Rouge, LA 70802

Date: February 24, 2017

PERSONS IN ATTENDANCE:

Name	Address <small>(please include full address and zip code)</small>	Telephone Number	AGENCY or GROUP you represent
1. US2 English Bhabha	3616 S. I-10 Service Rd. Metairie LA 70001	(504) 473-5711	JPHSA
2. Nicole Green	3616 S-1-10 Service Rd. Metairie LA 70001	(504) 838-5321	JPHSA
3. Rose Gilbert	3616 S I-10 Service Rd Metairie LA 70001	(504) 914-3149	JPHSA
4. William Jackson	Central Office	(225) 342-8668	OCDD



5.	Julie Jock Hager	Central Office	(225) 342-8765	OCDD
6.	Mark Thoms	OCDD Central	(225) 342-0095	OCDD
7.	Sandee Winchell	DD Council	(225) 3426804	DD Council
8.	Kirsten Clebert	OAAAS State Office	(225) 219-1149	LDH - OAAAS

9. Craig Gannuch      OCDD      225/342-3418      OCDD



LDH/OCDD PUBLIC HEARING

Hearing Topic: Individual and Family Support

Place: Room 118, Bienville Building, Department of Health and Hospitals, 628 North 4<sup>th</sup> Street, Baton Rouge, LA 70802

Date: February 24, 2017

PERSONS IN ATTENDANCE:

Name	Address  <i>(please include full address and zip code)</i>	Telephone Number	AGENCY or GROUP you represent
1. <i>Danmar R. R. R.</i>	<i>OCDD</i>	<i>(285)-342-0095</i>	<i>OCDD</i>
2.		( )	
3.		( )	
4.		( )	



## SUMMARY OF VERBAL AND WRITTEN COMMENTS

**Proposed Rule:** Individual and Family Support (IFS) Program Notice of Intent  
**Public Hearing Date:** February 24, 2017  
**Conducted By:** Louisiana Department of Health, Office for Citizens with Developmental Disabilities (OCDD)

Written/Verbal Comments Received From	Mode of Receipt	Summary of Comments
Herman Bignar read on behalf of Sandee Winchell	Hard Copy of Letter from Louisiana Developmental Disabilities Council Executive Director presented at Public Hearing	Louisiana Developmental Disabilities Council (DD Council) supports the proposed Individual and Family Support (IFS) Rule. DD Council previously submitted several suggestions and were very pleased that all of their suggestions were incorporated into the IFS Manual as well as the Rule.
<b>Jefferson Parish Human Services Authority</b> <ul style="list-style-type: none"> <li>Alicia English Roden, Executive Director</li> <li>Nicole Sullivan-Green</li> <li>Director of Developmental Disabilities Community Services</li> <li>Elizabeth Steinbeiser Riehl</li> <li>General Counsel, Director of Compliance &amp; Performance Support</li> <li>Rose Gilbert, JPHSA Board Member</li> </ul>	Verbal Comment at Public Hearing and Hard Copy Received by Mark Thomas OCDD Assistant Secretary on February 27, 2017	Jefferson Parish Human Services Authority (JPHSA) <ol style="list-style-type: none"> <li>Objected to the definition used for Local Governing Entity (LGE) and provided an alternate suggested definition in Section 1103 Definitions</li> <li>Objected to the definition used for Office for Citizens with Developmental Disabilities (OCDD) and provided an alternate definition found in Section 1103 Definitions.</li> <li>Asked for definition and/or clarity to several statements in the Rule:               <ol style="list-style-type: none"> <li>define 'all aspects of service provision' in Participant Records section 1105 A</li> <li>define 'forms approved for use by OCDD' in Participant Records Section 1105 E</li> <li>clarify if LGE can create their own Plan of Care format Section 1111 A</li> <li>clarify if LGE can use all four outcomes listed in Rule (approved, denied, approved pending funding, deferred) Section 1117 C</li> <li>requested if LGE can update Plan of Care rather than completing a new Plan for multiple requests within a plan year Section 1119 A</li> <li>define 'all sources' in IFS expenditures Section 1119 C</li> <li>Is 10 % supervision on all requests or only approved requests/receiving services in Section 1133 A</li> </ol> </li> <li>Corrected a typo in Section 1115(B) Family vs Families</li> <li>Requested a change in allowing IFS funding to be used for maladaptive behaviors in school-age children in Section 1125 A4</li> <li>Requested additional guidance when an IFS participant moves from one LGE to another in Section 1127 D</li> <li>Requested that future Proposed Rules / Notice of Intents are brought before the Human Services Interagency Council (HSIC) prior to publication in the Louisiana Register.</li> </ol>



**State of Louisiana**  
Louisiana Department of Health  
Office for Citizens with Developmental Disabilities

March 8, 2017

Louisiana Developmental Disabilities Council  
Executive Director Sandee Winchell  
P.O. Box 3455  
Baton Rouge, LA 70821-3455

Dear Ms. Winchell:

**Re: Public Comment on Proposed Rule / Notice of Intent  
OCDD Individual and Family Support (IFS) Program**

This letter is in response to your correspondence dated February 24, 2017, which was read into the record on your behalf by Herman Bignar at the public hearing held on the same date pertaining to the Notice of Intent of the Proposed Rule for the OCDD Individual and Family Support (IFS) Program.

OCDD would like to thank you for taking the time to provide comments regarding this Notice of Intent. Your input during the process of developing the new IFS Manual was invaluable, and I am pleased with the utilization of your suggested additions/revisions.

Your continued involvement in OCDD's policymaking efforts helps to improve our services, and in turn, the lives of the people we support.

Thank you again for your participation in the rulemaking process. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, reading "Mark A. Thomas".

Mark A. Thomas  
Assistant Secretary  
Office for Citizens with Developmental Disabilities





**State of Louisiana**  
Louisiana Department of Health  
Office for Citizens with Developmental Disabilities

March 8, 2017

Jefferson Parish Human Services Authority (JPHSA)  
Alicia English Rhoden  
Nicole Sullivan-Green  
Elizabeth Steinbeiser Riehl  
Rose Gilbert  
3616 I-10 Service Road  
Metairie, LA 70001

Dear JPHSA:

**Re: Public Comment on Proposed Rule / Notice of Intent  
Office for Citizens with Developmental Disabilities (OCDD)  
Individual and Family Support (IFS) Program**

This letter is in response to your verbal comments at the public hearing, which occurred on February 24, 2017, as well as your written letter with comments dated February 27, 2017, pertaining to the Notice of Intent of the Proposed Rule for the OCDD Individual and Family Support (IFS) Program published in the January 20, 2017 edition of the *Louisiana Register*.

The Department and OCDD would like to thank you for taking the time to provide comments regarding this Proposed Rule. This Notice of Intent is intended to establish program regulations for the IFS Program to ensure proper utilization of the IFS funds and service delivery. Below are the Department's responses to each comment:

1. Under Section 1103, Definitions:

- a. JPHSA objects to the definition of "Local Governing Entity (LGE)" and suggested an alternative.

*Response:* The definition of "Local Governing Entity (LGE)" in this IFS Notice of Intent is not intended to reflect all services that may be provided by every LGE. For the purpose of this chapter, Individual and Family Support, and according to the LDH Legal Department, the current definition is adequate. The definition is in RS 28:911 - Chapter 21. Statewide Human Services Delivery, Part I. Human Services Districts and Authorities: General Provisions, §911 Definitions (7).

- b. JPHSA objects to the definition of “Office for Citizens with Developmental Disabilities (OCDD)” and provided alternate language that would suggest that OCDD does not direct local initiatives.

*Response:* In RS 28:451.3 under Chapter 4-A. The Developmental Disability Law, Part I. General Provisions, §451.3 B defines the responsibilities which fall under the auspices of the OCDD Assistant Secretary. For the purpose of this chapter: Individual and Family Support, the current definition is adequate.

2. Under Section 1105 Participant Records:

- a. Section (A) – Requests definition of ‘all aspects.’

*Response:* The proposed rule utilizes “all aspects” to pertain to all community services the participant and/or the participant’s family has made the LGE aware of. This clarification will be added to the IFS Manual.

- b. Section (B) – Requests clarification whether forms will be provided by OCDD.

*Response:* The proposed rule states that all forms utilized must be approved for use by OCDD. The forms can be developed by OCDD, or by the LGE as long as the forms utilized are approved for use by OCDD.

3. Under Section 1111, Plan of Support:

- a. Section (A) – Inquires if OCDD will provide a plan template.

*Response:* The proposed rule states that plans will be developed utilizing the most recently approved OCDD format. The plan can be developed by OCDD, or by the LGE as long as the plan format utilized is approved for use by OCDD.

- b. Inquires if an LGE can develop its own plan of support.

*Response:* The proposed rule states that plans will be developed utilizing the most recently approved OCDD format. The plan can be developed by OCDD, or by the LGE as long as the plan format utilized is approved for use by OCDD.

4. Under Section 1115(B), notes typo, i.e., Family vs. Families

*Response:* Typo will be corrected in the rule to say “Families Helping Families.” Thank you for bringing that error to our attention.

5. Under Section 1117, Allocation of Individual and Family Support Funding:

- a. Section (C) – Inquires if LGEs use all four outcome options.

*Response:* JPHSA (and all LGEs) can use all four outcome options including “approved,” “denied,” “approved pending funding” and “deferred.”

6. Under Section 1119, Individual and Family Support Expenditures:



- a. Section (A) (1) – Provides a suggestion to consider using an update to the plan rather than a brand new plan for multiple IFS requests in a plan year.

*Response:* The language in the proposed rule/current IFS Manual effective October 1, 2016, does not exclude utilizing an update for multiple IFS requests within a plan year. A plan update must include the new request, any new information and new signatures dated within 90 days. This clarification will be added to the manual.

- b. Section (C) – Requests definition of “all sources.”

*Response:* Since this statement is within the section entitled IFS Expenditures, it is implied that “all sources” refers to all sources of IFS funded expenditures. The proposed rule will not be changed; however, the intent of this rule will be more clearly defined in an update to the IFS Manual. The term “all sources” is referring to all types of agreements, contracts, one-time purchases, and multiple requests within a plan year of IFS Program funded services, goods and products.

7. Under Section 1125, Ineligible Supports:

- a. Section (A) (4) – Requests consideration of allowing funding of behavior management for school-aged children to address maladaptive behavior occurring at home and in the community.

*Response:* Language in the proposed rule / current IFS Manual does not exclude allowing funding for school-aged children to address maladaptive behavior occurring at home and in the community.

8. Under Section 1127, Payment Mechanisms:

- a. Section (D) – Requests additional guidance when an IFS participant moves from one LGE to another.

*Response:* Language in the proposed rule/current IFS Manual is worded to allow flexibility to each LGE to negotiate the terms and services between each other when a participant moves from one LGE to another. If LGEs are unable to negotiate/resolve service and funding issues, additional guidance will be offered by OCDD when requested on a case-by-case basis.

9. Under Section 1133, Regional Program Monitoring and Reporting:

- a. Section (A) – Inquires if monitoring is 10% of all requests or 10% of funded requests.

*Response:* The proposed rule states that each LGE will conduct a supervisory review of at least 10% of Plans of Support. The intent of the proposed rule is a supervisory review of 10% of all active Plans of Support. The supervisory review might occur when individuals have been funded or are in the process of being funded. It is the *Active Plan of Support* that is being reviewed.

JPHSA

Re: Notice of Intent – response letter

Page 4

March 8, 2017

10. General Comment:

JPHSA requests that future Proposed Rules/Notices of Intent be brought before Human Services Interagency Council (HSIC) prior to publication in the *Louisiana Register*.

*Response:* This request has been noted and will be considered when future Proposed Rules/Notices of Intent are being created.

Thank you again for your participation in the rulemaking process. If you have any questions regarding this correspondence, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Thomas", with a stylized flourish at the end.

Mark A. Thomas  
Assistant Secretary  
Office for Citizens with Developmental Disabilities