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Emergency Rules

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Services

The Department of Health and Human Resources, Office of Family Services, does hereby exercise the emergency provision of the Administrative Procedures Act (R.S. 49:953B) to adopt the following policy in relation to the provision of vendor payment day care services. Since the closure of intake for vendor payment day care services on September 23, 1977, the number of participants has decreased to the enrollment level needed to remain within the program allocation for the remainder of this fiscal year. At this time, controls must be adopted to assure that the enrollment remains stable on an ongoing basis.

Effective January 15, 1978, a proportional share or quota of day care spaces shall be designated by the State Office of Family Services on a regional basis. The regional quota is based on the results of an analysis of the day care quarterly reports for the past two years to determine the average usage of vendor payment day care services by region. At the beginning of each quarter, the regional social services consultants shall be furnished the quota for their particular region. This quota system is not applicable to those children receiving day care through the Work Incentive Program (WIN), as provision of day care is mandatory for the WIN recipient. Upon receipt of the regional quota, the social services consultant or their designated representative must then determine how many spaces will be allowed for each parish in the region which has participating day care centers and family day care homes (HD's). Once the parish Office of Family Services has been assigned its quarterly quota, internal controls must be established by the local office to assure that the number of children certified for day care does not exceed the quota.

During the balance of this fiscal year should it be determined that an additional number of children can be served, the quota will be increased accordingly.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Services

The Department of Health and Human Resources, Office of Family Services does hereby exercise the emergency provisions of the Administrative Procedures Act (R.S. 49:953B) to adopt the following policy in relation to board payments for foster children in certain private child caring institutions. Effective November 1, 1977, the board rate paid by the Office of Family Services was adjusted to equal the board rate paid to the same facilities by the Office of Youth Services. The new rates to the designated facilities reflect the costs of child care as

audited by the Office of Youth Services. The designated child caring facilities and the adjusted board rates are as follows:

Facility	Adjusted Rate
Blundon Home	\$630.00
Carrollton House	617.10
*Hope Haven/Madonna Manor	630.00
Joliet House	630.00
LaPlace Christian Home	544.50
Lafitte House	591.00
McDonnell Methodist Home	618.90
Milne	630.00
Pollux House	630.00
Rutherford House	630.00
Sager Brown School	630.00
St. Elizabeth's	630.00
Samaritan House	630.00
Southern Hills Group Home	545.70

*Does not include children in the intensive care unit at above \$630 rate.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Services

The Department of Health and Human Resources, Office of Family Services, has adopted effective December 1, 1977, the reservation of a bed for up to twenty-five days per calendar year while the recipient is absent from an intermediate care facility for the mentally retarded for home leave. Retroactive payment will not be made for any home leave days which exceeded the previous eighteen day limitation prior to December 1, 1977.

This action shall be taken pursuant to R.S. 49:953B. Copies of the emergency rule are available for public examination at the Department of Health and Human Resources, Office of Family Services, 755 Riverside Mall, Baton Rouge, Louisiana.

William A. Cherry, M. D., Secretary
Department of Health and Human Resources

Rules

RULES

Board of Elementary and Secondary Education

Rule 4.00.72c

Revision to Bulletin 1196, Louisiana Food and Nutrition Programs Policies of Operation, page 11, paragraph 3, second line, by changing item 1 to read: "utilities separately metered or technically estimated."

Rule 3.01.51e

Revision to Bulletin 741, Handbook for School Administrators, Revised 1977, page 25, to add the authority for granting of credit to students who take courses in vocational-technical schools.

Revision to Bulletin 741, Handbook for School Administrators, Revised 1977, page 23, to add the granting of credit for cosmetology.

Rule 4.00.74

Revision to Bulletin 1134, Standards for School Libraries, to read; "Public schools, grades one through eight or any combination, be allowed to subscribe to a minimum of three children's magazines per one hundred pupils."

Rule 3.01.70v(17)

Teachers and other school personnel will be allowed a certain period of time in which to acquire added certification: (1) With the exception of the 1977 legislative acts, when certification requirements are changed requiring a program change at the college level, that a period of at least four or five years be given so that catalogs may be changed and all incoming freshmen notified of the changes; (2) Any certification change made by the State Board of Elementary and Secondary Education should include implementation dates and should be specified at the time the Board takes action. (3) Any certification change recommended by the Teacher Certification Advisory Council should include implementation dates and should be specified at the time of recommendation to the Board for action.

Rule 5.00.80(1)

Tuition Exemption for Teachers

Guidelines were adopted for the implementation of Act 20 (1977 Extraordinary Session).

Act 20 Guidelines

1. The State Department of Education shall prepare an application form for the approval of the tuition exemption. This form will be sent to all local school boards for distribution to eligible teachers.

2. A. Teacher will get the form from the local school board and make application for tuition exemption to the State Department of Education.

B. Applications must be received in the department thirty days prior to enrolling in the college or university.

C. Applications will be processed and the teacher will be notified fourteen days prior to the date of enrollment as to the approval or disapproval of their tuition exemption.

D. All applications will be screened for eligibility by the State Department of Education.

E. All qualified applicants will be granted only the "tuition" exemption.

3. Any certified teacher teaching in, or on approved leave from, a State approved elementary or secondary school, and any adult education teachers in approved adult education classes and/or centers, or any degreed teacher eligible to teach in a public school and teaching in an approved nonpublic school in compliance with nonpublic school standards, shall be eligible for the tuition exemption providing the teacher "attends" a Louisiana public college or university. This tuition exemption shall not apply to those teachers holding temporary certificates but will apply to those teachers holding regular certificates with temporary certification in a particular area.

A. Interpretation of "attend".

The teacher shall enroll in an on-campus course or an extension course. Correspondence courses will not be considered.

B. Interpretation of "teacher".

Those classroom teachers, counselors, and librarians that are actively engaged in the day-to-day teaching of children, and special education teachers in the approved elementary and secondary schools of the State, and adult education teachers in the approved adult education classes and/or learning centers in the state.

C. Only full time teachers or teachers on approved leave that are regularly employed are eligible under this act. Day-to-day substitute teachers are not to be eligible.

4. Only those courses of instruction in the teacher's field or discipline may be taken under this program. Course load shall not exceed six semester hours per semester while teaching full time.

Interpretation of field or discipline.

A. Course work to further develop his/her proficiency in any of the areas of certification endorsed on his/her teaching certificate.

B. Course work to further develop his/her proficiency in any field, outside his/her area of certification, to which the teacher has been assigned. This type of assignment must be attested to by the school principal or immediate supervisor.

C. Course work leading to an approved advanced degree.

5. The State Superintendent of Education shall reimburse each Louisiana public college or university at the end of the semester for only the "tuition" funds lost due to this program. The funds shall be paid from monies appropriated therefor or otherwise made available for this program.

6. The program will go into effect only after certification by the Division of Administration and approval by the Legislative Budget Committee that the General Fund revenues are available for this purpose.

7. Appeals Procedure

A. An Act 20 Appeals Committee composed of three members shall be appointed by the State Board of Elementary and Secondary Education.

B. Any person determined to be ineligible by the State Department of Education would be given reasons for denial and advised of the right to appeal to the Act 20 Appeals Committee.

C. The individual should then contact the Director of the State Board of Elementary and Secondary Education for procedures to be followed for the appeal.

D. The Act 20 Appeals Committee would meet, if necessary, prior to the regular monthly meeting of the State Board of Elementary and Secondary Education to hear appeals cases so that their recommendations can be acted upon by the full Board at the regular meeting.

Rule 3.01.70v(18)

An individual who met certification requirements prior to their change on September 1, 1975, but did not have the certification added to the certificate, shall be certified by the Department of Education upon presentation of evidence that the error was not of his own making. This does not cover those cases where an individual failed to meet his responsibility by having the certification added himself.

Bro. Felician Fourrier, S.C., Acting Director
Board of Elementary and Secondary Education

RULES

Board of Regents

Academic Affairs

Letters of Intent

Section II, 2.2(Rev.)—The purpose of letters of intent is to strengthen the planning and coordination of academic programs by allowing the Board of Regents to review summaries of projected programs while they are still in the formative stage. Accordingly, institutions of higher education shall transmit letters of intent to the Commissioner of Higher Education for all academic programs to be proposed. A letter of intent must be filed separately for each program to be submitted. Each letter of intent should be limited to three pages or less. It should provide the title, a brief description, and purpose of the projected program, and demonstrate that the program would:

- (1) Be within the role and scope of the institution.
- (2) Complement and strengthen existing programs at the institution.
- (3) Avoid unnecessary duplication of programs at other State-supported institutions.
- (4) Supply present and future manpower needs.
- (5) Be within the institution's anticipated resources.

(a) Letters of intent have no binding qualities. Institutions may later decide to alter or cancel plans for projected programs. Letters of intent will not affect the authority of management boards to dispense with proposed programs as they deem appropriate. Communications and deliberations pursuant to a letter of intent will imply neither approval nor disapproval of the subsequent program by the Board of Regents.

(b) Letters of intent must be filed at least twelve months in advance for the submittal of baccalaureate, master's, specialist, and doctoral programs; and ninety days in advance for the submittal of certificate and associate programs. Under unusual circumstances, institutions may at any time request the Board of Regents to waive these requirements.

(c) The staff will submit periodic reports to the Board of Regents summarizing both the letters of intent on file and deliberations with institutions pertaining to them.

* * * *

Finance
Capital Projects

Section II, 3.4(Rev.)—All changes to any institution or system's physical facilities that add to, improve, change the utilization of, or that remove from use such facilities will first be submitted to this Board for review, comment, and approval prior to beginning any such project. Provided, however, that exception(s) will be made for certified emergency projects of a nonrecurring nature requiring immediate attention. Any such emergency project certified to by the appropriate management board's chief administrative officer may be approved by the Commissioner of Higher Education if concurred in by the Chairman of the Board and the Chairman of the Finance Committee. Any such action(s) taken will be reported to the full Board at its next meeting. Funding limits for emergency projects of this type are as established by State statute. Minor repairs and minor construction costing less than \$25,000 will not be subject to individual approval by the Board of Regents provided adequate funds are available, all existing emergencies are being satisfied, and these projects are approved by the appropriate management board.

* * * *

Finance
Dedicated Revenues

Section II, 3.5B(Rev.)—Revenues which were dedicated to higher education institutions prior to January 1, 1975, will comply with requirements set forth in the new Constitution concerning the dedication of funds and applicable State statutes.

William Arceneaux
Commissioner of Higher Education

RULE

Department of Health and Human Resources
Office of Family Services

The Department of Health and Human Resources, Office of Family Services, has adopted policy that permits only incurred expenses for the following types of necessary medi-

cal or remedial care and services to be deducted from the medically needy applicant's excess income.

1. Inpatient hospital services, including mental and tuberculosis hospitals.
2. Outpatient hospital services.
3. Laboratory and X-ray services.
4. Diagnostic and treatment components of Early and Periodic Screening, Diagnosis and Treatment Program for under age twenty-one including dental services and eyeglasses. State Office approval for dental services under age twenty-one is not necessary for spend-down, but is required for the Office of Family Services to participate on spend-down date.
5. Family planning services and supplies for individuals of childbearing age (such services covered under physician and pharmacy services).
6. Licensed physician services, including injections, but OFS will not participate in payment for therapeutic injections on spend-down date.
7. Chiropractic services.
8. Optometrists' services for cataract glasses only and for eye examinations for glasses and purchase of glasses for individuals.
9. Home health services.
10. Licensed medical clinic services, including mental health centers, alcoholism clinics.
11. Licensed skilled nursing facilities.
12. Licensed intermediate care facilities, including institutions for mentally retarded.
13. Prescription drugs, but OFS will participate only in payment for covered legend drugs, i.e., those drugs that can only be purchased with a prescription, with certain exceptions.
14. Durable medical equipment, including artificial limbs, eyes, braces, hearing aids, wheelchairs, hospital beds, lifts, commodes, walkers. OFS State Office approval is not necessary for spend-down, but is required for OFS to participate on spend-down date.
15. Rehabilitation center services—OFS State Office approval is not necessary for spend-down but is required for OFS to participate on spend-down date.
16. Medical transportation.
17. Dental treatment regardless of age.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

RULE

Department of Health and Human Resources
Office of Family Services

The Department of Health and Human Resources, Office of Family Services, has adopted revisions to the Standards for Payment to Skilled Nursing Facilities and Intermediate Care Facilities I and II so that the medicaid payment to these facilities shall include the following care items: any form of disposable pads or diaper service; irrigation trays, drainage bags and tubing; and, sheepskins.

The nursing facility shall no longer be able to charge medicaid recipients and/or their families for these items. The facility will either provide or arrange for medically prescribed oxygen and physical therapy and transportation for medical care. The recipient and/or their families may be involved in the arrangements, but will not be responsible for the payment of these services.

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In addition, when a facility has been involuntarily terminated from participation in the Medical Assistance Program, that facility can come back into the program following the decertification without a sixty day lapse on payment.

The nursing homes shall be responsible for providing, for medicaid recipients as part of the vendor payment, laxatives (any one brand of the following): milk of magnesia, mineral oil, cascara, glycerin suppositories.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

RULE

**Department of Health and Human Resources
Office of Family Services**

The Department of Health and Human Resources, Office of Family Services, has adopted the following Need Standards for the Aid to Families with Dependent Children (AFDC) and the General Assistance (GA) programs in compliance with Act 540 of the 1976 Legislature.

A. Aid to Families with Dependent Children.
Parishes of Orleans, St. Bernard, Jefferson
and East Baton Rouge

Size Household	AFDC Need Standard
1	\$ 125.00
2	240.00
3	333.00
4	410.00
5	483.00
6	550.00
7	615.00
8	680.00
9	743.00
10	805.00
11	873.00
12	943.00
13	1010.00
14	1083.00
15	1155.00
16	1233.00
17	1293.00
18	1375.00

For each additional person add \$85.00

All Parishes other than Orleans,
St. Bernard, Jefferson, and
East Baton Rouge

Size Household	AFDC Need Standard
1	\$ 115.00
2	215.00
3	303.00
4	378.00
5	450.00
6	515.00
7	583.00
8	648.00
9	710.00
10	773.00
11	840.00
12	910.00
13	983.00
14	1055.00
15	1128.00
16	1200.00
17	1273.00
18	1345.00

For each additional person add \$78.00

B. General Assistance (Aid to partially and/or temporarily disabled):

Size Household	Standard
1	\$190.00
2	240.00

The standards for families with dependent children were arrived at by adjusting the Federal poverty guidelines so that each standard would bear the same percentage relationship to the actual AFDC grant standard for each household size. The Department of Health, Education and Welfare requires that a flat grant standard for a two person household be the same percentage of the need standard for that size household as the flat grant standard of a ten person household is of the need standard for a ten person household, and so on for each size household. A review of information available on need standards has led us to the conclusion that the poverty index as published by the Federal Community Services Administration is a reasonable standard, and probably comes as close as anything else to reflecting what income is needed by a family to maintain a standard of living that is consistent with a level of decency. The higher level for Orleans, Jefferson, St. Bernard, and East Baton Rouge Parishes is warranted because the shelter costs in those parishes are considerably higher than costs in other parishes.

The standard for a two person household in General Assistance is the same as the standard for a two person AFDC household in a nonrural setting. The standard for a one person General Assistance household, however, is larger than the standard for a one person AFDC household because in General Assistance the individual is usually living alone with responsibility for total living expenses; whereas, in AFDC the child is always living in a shared expense setting with an adult and need is less.

The AFDC and GA need standards have no direct effect on payment levels or amounts. Need standards are required by Department of Health, Education and Welfare regulations, but provide that payment levels can be less when required by State budget limitations and after considering other benefits that are available to the indigent individuals and families.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

RULES

**Department of Natural Resources
Office of Conservation**

**Practice and Procedure for all
Hearings, Investigations, and Proceedings
Under the Louisiana Surface Mining
and Reclamation Act.**

Rule 1. Definitions

Each of the words used herein which have been defined in Section 904 of Title 30, Louisiana Revised Statutes, shall have the same definition and meaning as therein set forth. The following words as used in these rules shall have the following meanings:

Section—Unless otherwise identified refers to the section numbers in Title 30 of the Louisiana Revised Statutes.

The Act—The Louisiana Surface Mining and Reclamation Act.

Exploration operations permit—The written certification by the Commissioner that the named operator may conduct the exploration operations described in the certification during the term of the exploration operations permit and in the manner established in the certification.

Toxic material—Any substance present in sufficient concentration or amount which reasonably supports the conclusion that such substance presents a substantial risk of causing injury or illness to plant, animal or human life.

Access road—All private roads located within the permit area and under the control of the operator of the surface mining operations.

High wall—The vertical or nearly vertical wall of exposed strata adjacent to the side of a mineral deposit which results from surface mining excavations.

Terracing—Grading where the steepest contour of the high wall shall not be at a greater angle from the horizontal than that set by the Commissioner and approving a specific reclamation plan calling for terracing, with the table portion of the restored area a flat terrace without depressions to hold water and with adequate provision for drainage, unless otherwise approved by the Commissioner.

Rule 2. Exploration Operations Permit

2.1 Any person desiring to conduct exploration operations, as defined herein, shall file with the Commissioner an application, in triplicate, upon forms furnished by the Commissioner, for an area permit to engage in exploration operations. Such application shall be filed at least thirty days prior to requested date of issuance.

2.2 Submit a permit fee of fifty dollars for each application filed. Each application shall be restricted to a single township.

2.3 Submit a bond in the amount of three thousand dollars for each township affected provided the amount of test holes and core holes shall not exceed seventy-two in number. In the event tests holes or core holes are to exceed seventy-two, the bond is to be increased by thirty dollars for each additional test hole or core hole provided said additional number of test holes or core holes for a township is approved by the Office of Conservation.

2.4 The exploration operations permit shall be valid for a period of one year from date of issuance and the bond may be increased at any time during this period should the Commissioner of Conservation deem it necessary. Within six months after expiration of the area permit, the applicant shall submit a report to the Commissioner setting forth therein a record of the location of each test hole or core hole drilled together with an affidavit attesting that each has been properly plugged and abandoned. The required bond shall be released after the Commissioner determines that the test or core holes have been properly plugged and after the Commissioner has been furnished with the core analysis and the logs of each test hole or core hole drilled where available. Any core analysis and logs so furnished shall likewise be due within six months after expiration of the exploration operations permit.

Rule 3. Development Operations Permit

3.1 Any operator proposing to undertake development operations which involve the removal of substantial quantities of overburden with explosives or power earthmoving equipment primarily in order to determine quality, boiler design criteria, the feasibility of removing lignite or coal, and other testing purposes, shall submit an application for development operations permit to the Commissioner prior to commencing any such operations. A permit fee of seventy-five dollars shall accompany each application.

3.2 The application shall contain the following:

(a) Topographic maps or equivalent maps or aerial photographs showing the area to be disturbed;

(b) The maps or aerial photographs required by 3.2(a) above shall show the tract boundaries, the contour on which the activity will take place, and the intervals at which there will be surface disturbances;

(c) A description of the method or methods which will be used to carry out the development operations on the proposed site and an estimate of the cost of reclamation per acre;

(d) A reclamation plan to regrade and revegetate the disturbed area in accordance with Regulation No. 10 hereof;

(e) A sufficient bond to insure performance of the duty to reclaim the disturbed area pursuant to the approved reclamation plan, said bond to be in an amount consistent with the findings in Rule 3.2(c) above;

(f) A statement setting forth the proposed date of commencement of the development operations and an estimate of the period of time during which such operations are to be carried out.

3.3 Application for such permit shall be processed expeditiously and applicants notified of action taken thereon by the Commissioner with respect thereto within five working days of receipt of application.

Rule 4. Surface Mining Permit

4.1 Permit applications may cover one or more surface mining operations which may or may not be contiguous. A single application may be submitted to the Commissioner for a combined surface mining permit covering all noncontiguous surface mining operations and shall contain a single mining and reclamation plan covering all land described in the application.

4.2 The permit application shall be submitted on forms prescribed by the Commissioner and shall contain all the information and data required by the provisions of Section 905 of the Act.

4.3 Within sixty days following receipt of a proper application, the Commissioner shall call a public hearing pursuant to the provisions of Section 910 and shall either grant or deny the application within fifteen working days after completion of the hearing, in the manner and pursuant to the terms and provisions of the Act and the rules and regulations which the Commissioner may adopt thereunder.

4.4 Each successful applicant shall submit a certificate of public liability insurance, a performance bond with acceptable surety, or a bond or cash or collateral securities in accordance with the provisions of the Act, and shall pay to the Office of Conservation the required fee at the time and in the amount provided for in the Act.

4.5 When an application is made for a permit to conduct surface mining operations, the Commissioner shall immediately cause the area proposed to be included within the permit-area to be examined prior to the issuance of the permit. Following the hearing on the application, the area or a portion thereof may be designated by the Commissioner, pursuant to Section 905(D) of the Act, as unsuitable for reclamation should evidence at the hearing conclusively warrant the finding that such operations will result in significant damage to important areas that are: (a) State or national historical sites or landmarks; (b) archeological sites; (c) aquifer and aquifer recharge areas which provide drinking water to the public; (d) subject to frequent flooding or of unstable geology that may reasonably be expected to endanger life and property; (e) areas where such operations would endanger any public road, public building, cemetery, school, church, or similar structure or existing dwelling outside the permit area.

4.6 The surface mining permit shall be granted if it is established that the application complies with the requirements of these rules and all applicable Federal and State laws. The Commissioner may approve a surface mining permit conditioned upon the issuance of all other required permits or licenses, and all permits granted by the Commissioner during the initial regulatory period of the Federal