

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

Home and Community Based Services Waiver Program Mentally Retarded/Developmentally Disabled Waiver

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1995-96 General Appropriation Act, which states: "The secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing administers the Home and Community Based Services Program. Participation in each Home and Community Based Services Waiver Program is limited to a specific number of participants based on the approval of the waiver program by the Health Care Financing Administration. Previously the bureau filled approved vacated slots by allocating the vacated slot to the next available person on the appropriate waiting list. That person, if found eligible, became the next occupant of the slot. This process was continued with the maximum number of allowable slots approved by the Health Care Financing Administration serving as the participation limit.

The bureau revised the above policy for the Mentally Retarded/Developmentally Disabled Waiver Program through emergency rulemaking (*Louisiana Register*, Volume 21, Number 7) by mandating that vacated slots would not be filled except that the eligibility determination process had been completed in the following circumstances: (1) for those persons whose applications for waiver services were filed in the parish BHSF office prior to July 13, 1995; and (2) for those foster children who have been designated by court order and who are in the custody of the Office of Community Services for whom that agency will provide the state funds required to match federal financial participation for the waiver.

The bureau subsequently determined that it is necessary to revise the above policy regarding the filling of slots in the MR/DD Waiver Program and adopted an emergency rule (*Louisiana Register*, Volume 21, Number 10) which specified how these vacant slots are to be filled. The vacated slot would be allocated to the next available person on the appropriate waiting list. That person, if found eligible, becomes the occupant of that slot. If that person is not found eligible, the next available person on the appropriate waiting list is reviewed for eligibility for the slot. This process is continued until the slot is filled. The maximum number of slots to be filled must not exceed the number of filled slots as of September 1, 1995. The above provisions were continued in force through subsequent emergency rulemaking as published in the February 20, 1996 *Louisiana Register*.

Adoption of the following emergency rule is necessary to maintain the above policy on the filling of MD/DD slots at the September 1, 1995 level in order to avoid a budget deficit in the medical assistance programs and to comply with the line item appropriation for the MR/DD Home and Community Based Waiver Program. Program reports through December 31, 1995 indicate that the expenditures for this program total \$23,026,118 which is 48 percent of the \$47,918,000 appropriated for the entire state fiscal year 1996 with one half of the year still remaining. If the participation level is not maintained expenditures will exceed the legislative appropriation.

Emergency Rule

Effective June 5, 1996 the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following methodology for filling vacant slots in the MR/DD Waiver Program.

1. The maximum number shall not exceed the number of filled slots as of September 1, 1995.
2. The bureau shall fill vacant slots by allocating a vacated slot to the next available person on the appropriate waiting list. That person, if found eligible, becomes the occupant of that slot. If that person is not found eligible, the next available person on the appropriate waiting list will be reviewed for eligibility for the waiver slot.

Bobby P. Jindal
Secretary

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