

# DECLARATION OF EMERGENCY

## Workforce Commission Rehabilitation Services

### Income Scale used for Financial Needs and Budgetary Analysis Tests (LAC 67:VII.115)

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. COVID-19 has resulted in widespread unemployment, economic hardship, and financial uncertainty, which has adversely affected the public health, safety, and welfare of Louisiana citizens, including Louisiana citizens with disabilities. Louisiana citizens with disabilities are even more vulnerable to the financial uncertainties, widespread unemployment, and economic hardships resulting from COVID-19. The LWC/LRS expressly finds that imminent peril to the public health, safety, or welfare requires adoption of this rule on an emergency basis. This Emergency Rule is adopted on July 6, 2021, to continue in effect those provisions of the Emergency Rule adopted by Rehabilitation Services on July 10, 2020.

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., the Louisiana Workforce Commission, Louisiana Rehabilitation Services (LWC/LRS), amends LAC 67:VII.115 in the Vocational Rehabilitation Program, as authorized by R.S. 23:3022. The LWC/LRS finds it necessary to amend the provisions of the Louisiana Administrative Code related to the income scale that will be used for financial needs and budgetary analysis tests. This proposed rule amendment will add greater flexibility to the budgetary analysis and financial needs test by revising language, which requires a financial need analysis to determine the ability of an individual to financially contribute to the cost of "vocational and other training services, such as college/university, vocational and proprietary school training". The current rule limits the number of Louisiana citizens with disabilities who are eligible to receive vocational and other training services, such as college/university, vocational and proprietary school training. The proposed rule alleviates this burden and will allow more of Louisiana's citizens with disabilities to take advantage of training and educational opportunities that are designed to help succeed in the labor market by equipping them with the additional skill(s) to compete in the post-COVID economy for in-demand jobs. Failure to adopt the proposed rule amendment on an emergency basis will result in continued financial restrictions thereby limiting the number of Louisiana disabled citizens who can take advantage of financial assistance for vocational and other available training services offered through the LRS programs. This Emergency Rule shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

# Title 67

## SOCIAL SERVICES

### Part VII. Rehabilitation Services

#### Chapter 1. General Provisions

##### §115. Financial

###### A. Comparable Services and Similar Benefits

###### 1. Determination of Availability

a. Prior to providing any vocational rehabilitation service to an eligible individual, except those services specified below in Subclauses c.i.(a)-(f), LRS will determine whether comparable services and benefits are available under any other program (other than a program carried out under Title IV, Rehabilitation Act Amendments of 2014) unless such a determination would interrupt or delay:

i. the progress of the individual toward achieving the employment outcome identified in the IPE of the individual;

ii. an immediate job placement; or

iii. the provision of such service to any individual at extreme medical risk.

b. Awards and Scholarships. For purposes of the determination of availability in Paragraph A.1 above, comparable benefits do not include awards and scholarships based on merit.

c. Exceptions to Use of Comparable Services and Benefits

i. The following vocational rehabilitation services can be provided without making a determination of the availability of comparable services and benefits:

(a). services provided through LRS's information and referral system;

(b). assessment for determining eligibility and vocational rehabilitation needs, including if appropriate, assessment by personnel skilled in rehabilitation technology;

(c). counseling and guidance, including information and support services to assist an individual in exercising informed choice;

(d). referral and other services needed to secure necessary services from other agencies through cooperative agreements, if such services are not available from LRS;

(e). job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

(f). rehabilitation technology, including telecommunications, sensory, and other technological aids and devices.

B. Individual's Participation in the Cost of Vocational Rehabilitation Services

1. Neither a financial needs test nor a budgetary analysis of assets, income, and disability-related expenses shall be applied as a condition for furnishing any vocational rehabilitation service if the individual in need of the service has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act.

2. LRS will consider, through budgetary analysis of assets, income, disability-related expenses and comparable services and benefits, the financial need of eligible individuals; and individuals who are participating in trial work periods—for purposes of determining the extent of the individual's participation in the costs of certain vocational rehabilitation services.

a. Neither a financial needs test, nor a budgetary analysis, is applied and no financial participation is required

as a condition for furnishing the following vocational rehabilitation services:

i. assessment for determining eligibility and priority for services, except those non-assessment services that are provided during an evaluation to explore the individual's abilities, capabilities, and capacity to perform in work situations (trial work periods);

ii. assessment for determining vocational rehabilitation needs;

iii. counseling, guidance, including information and support services to assist an individual in exercising informed choice;

iv. referral and other services to secure needed services from other agencies through cooperative agreements, if such services are not available from LRS;

v. job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

vi. rehabilitation technology assessments;

vii. supported employment;

viii. on-the-job training;

ix. assistive technology devices and services (except hearing aids);

x. personal assistance services provided simultaneously with any of the above-listed vocational rehabilitation services; (Examples include attendant, reader, scribe, interpreter, ASL, braille, notetaker, and adjustment/orientation and mobility training services.)

b. A financial need analysis will be applied to determine the ability of the individual to financially contribute to the cost of the following vocational rehabilitation services:

i. physical restoration and/or mental restoration;

ii. hearing aids;

iii. maintenance;

iv. transportation;

v. books and supplies;

vi. occupational tools and equipment;

vii. cost services to other family members;

viii. occupational licenses;

ix. discretionary training fees such as car registration fees, student health service fees, etc. not included in tuition;

x. vocational and other training services, such as college/university, vocational and proprietary school training;

xi. other goods and services, not specifically identified in Subparagraph d below;

xii. post employment services consisting of the services listed above.

c. The only exception to Clause x above is as follows.

i. To preserve LRS' Continuity of Services provision in the Order of Selection, LRS exempted those eligible individuals who had an IWRP/IPE in effect prior to July 20, 1999, which is the date of the adoption of this rule change; therefore, Clause x in Subparagraph b above will only apply to those individuals who had an IWRP/IPE developed after July 20, 1999.

d. The following services are exempt from the application of a budget surplus, if the counselor determines that a surplus exists:

i. adjustment/orientation and mobility services;

ii. attendant services;

iii. reader services;

iv. scribe, notetaker/Braille services;

v. interpreter services;

vi. assistive technology services.

e. When it is determined by a counselor and an eligible client that self-employment, through establishment of a small business enterprise, is the best option for the client, the client must provide a minimum cash capital contribution of 20 percent of the total transaction. (Refer to LRS Policy on Small Business Enterprise.)

f. Individuals who do not provide LRS with necessary financial information to perform the budget analysis will be eligible only for those vocational rehabilitation services that are not conditioned upon an analysis to determine the extent of the individual's participation in the costs of such services.

g. Individuals who have defaulted on a student loan must make good faith efforts with the lender to clear the default or to defer payment before LRS will participate in the cost of the client's vocational rehabilitation program.

h. Simultaneously with the comprehensive assessment, at the annual review of the IPE, and at any time there is a change in the financial situation of either the client or the family, the counselor will perform a budget analysis for each client requiring vocational rehabilitation services as listed above in § 115.B.2.b.i-xii. The amount of client participation in the cost of their vocational rehabilitation program will be based upon the most recent budget analysis at the time the relevant IPE or amendment is developed.

3. State and Departmental Purchasing Procedures. All applicable state, departmental and agency purchasing policies and procedures must be followed.

a. LRS does not purchase vehicles or real estate.

b. Fee Schedule. Services and rates of payment must be authorized in accordance with LRS's Medical Fee Schedule and LRS's Technical Assistance and Guidance Manual, Section 500 which lists approved service providers.

c. Approval of Service Providers

i. Any service provider approved by the agency must agree not to make any additional charge to or accept any additional payment from the client or client's family for services authorized by the agency.

ii. Relatives of vocational rehabilitation clients will not be approved as a paid service provider unless such individuals are professionally and occupationally engaged in the delivery of such services by offering their services to the general public on a regular and consistent basis.

d. Prior Written Authorization and Encumbrance

i. Either before or at the same time as the initiation or delivery of goods or services, the agency must be in possession of the proper authorizing document. The only exception is in an emergency situation.

ii. If oral authorization of approved services is made in an emergency situation, there must be prompt documentation, and the authorization must be confirmed in writing and forwarded to the provider of the services.

C. LRS shall determine an individual's financial need for certain vocational rehabilitation services, as listed in B.2.b above, is based on the individual's disability related expenses, available assets, and a multiple of 250-500 percent of the current U.S. Department of Health and Human Services' poverty guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:3022.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), LR 21:837 (August 1995), LR 24:959 (May 1998), LR 25:1273 (July 1999), LR 27:212 (February 2001), LR 27:1561 (September 2001), LR 29:47 (January 2003), LR 30:1488 (July 2004), LR 34:1038 (June 2008), amended by the Workforce Commission, Rehabilitation Services, LR 41:1775 (September 2015), repromulgated LR 41:2180 (October 2015), amended LR 47:

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