

RULE

Department of Health and Hospitals Office of Aging and Adult Services

Traumatic Head and Spinal Cord Injury Trust Fund Program
(LAC 48:I.Chapter 19 and LAC 67:VII.Chapter 19)

The Department of Health and Hospitals, Office of Aging and Adult Services does hereby amend the Traumatic Head and Spinal Cord Injury Trust Fund Program regulations as authorized by R.S. 36:259(T). This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

During the 2012 Regular Session, the Louisiana Legislature authorized the transfer of the Traumatic Head and Spinal Cord Injury Trust Fund and its functions to the Department of Health and Hospitals, Office of Aging and Adult Services (R.S. 36:259(T)). The Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board (R.S. 46:2631-2635) was also placed within the Department of Health and Hospitals. This Rule is being promulgated to adopt the changes created by the new legislation.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 1. General

Chapter 19. Traumatic Head and Spinal Cord Injury

Editor's Note: This Chapter, formerly LAC 67:VII.Chapter 19, was moved to LAC 48:I.Chapter 19.

§1901. Program Profile

[Formerly LAC 67:VII.1901]

A. Mission—to provide services in a flexible, individualized manner to Louisiana citizens who survive traumatic head or spinal cord injuries enabling them to return to a reasonable level of functioning and independent living in their communities.

B. Program Administration

1. The Department of Health and Hospitals, Office of Aging and Adult Services (OAAS), shall be responsible for administration of the Louisiana Traumatic Head and Spinal Cord Injury Trust Fund.

2. OAAS will have the responsibility of:

- a. promulgating rules and regulations;
- b. establishing priorities and criteria for disbursement of the fund;
- c. evaluating the needs of head injured and spinal cord injured individuals to identify service gaps and needs; submitting an annual report with recommendations to the legislature and governor 60 days prior to each Regular Session of the Legislature; and
- d. monitoring, evaluating, and reviewing the development and quality of services and programs funded through the trust fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1252 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1903. Enabling Legislation

[Formerly LAC 67:VII.1903]

A. House bill number 591, Act 269 of the 2012 Regular Session, chapter 48 of title 46 of R.S. 46:2631-2635 and R.S. 36:259(T).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1252 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1905. Definitions

[Formerly LAC 67:VII.1905]

Advisory Board—Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board.

Domiciled—a resident of the state of Louisiana with intent to permanently remain within the state.

Medically Stable—no progression of deficits and/or no deterioration of physical/cognitive status; does not require acute daily medical intervention.

Medically Unstable—progression of neurologic deficits and/or deterioration of medical condition.

Spinal Cord Injury—an insult to the spinal cord, not of a degenerative or congenital nature but caused by an external physical force resulting in paraparesis/plegia or quadraparesis/plegia.

Traumatic Head Injury—an insult to the head, affecting the brain, not of a degenerative or congenital nature, but caused by an external physical force that may produce a diminished or altered state of consciousness which results in an impairment of cognitive abilities or physical functioning.

Trust Fund—Traumatic Head and Spinal Cord Injury Trust Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1253 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1907. General Requirements

[Formerly LAC 67:VII.1907]

A. Cost-Effective Service Provision. All services shall be provided in a cost-effective manner.

B. Case Record Documentation. A case record will be maintained for each individual served. The record shall contain documentation to support the decision to provide, deny, or amend services. The case record will contain documentation of the amounts and dates of each service delivery.

1. All records must include service plans and progress notes.

2. All records must reflect individual identifications, and other pertinent medical histories.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1253 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1909. Individual Appeals Rights

[Formerly LAC 67:VII.1911]

A. Administrative Review. The administrative review is a process which may be used by individuals for a timely

resolution of disagreements pertaining to eligibility decisions or a denial of services. The administrative review will allow the individual an opportunity for a face-to-face or telephone meeting with the program manager of the Traumatic Head and Spinal Cord Injury Trust Fund Program regarding the issues of concern. The individual will have the right to bring representation to the administrative review.

1. All applicants must be provided adequate notification of appeal rights regarding eligibility and/or the provision or denial of services. Unless services being provided have been obtained through misrepresentation, fraud, collusion or criminal conduct on the part of the individual, such services will continue during the administrative review process.

2. In order to insure that the individuals are afforded the option of availing themselves of the opportunity to appeal decisions impacting their eligibility and/or receipt of services, adequate notification will include:

- a. the decision being reached;
- b. the basis for and effective date of the decision;
- c. the specific means for appealing the decision;
- d. the individual's right to submit additional evidence and information, including the individual's right to representation; and
- e. the name and address of the program manager of the trust fund program. The program manager should be contacted in order to schedule an administrative review or advisory board review.

3. The appeal request must be made in writing and post-marked or received in the office of the program manager of the trust fund program within 10 calendar days of receipt of notification of denial of eligibility or a denial of services. The administrative review must take place and a decision reached within 30 calendar days of the receipt of the individuals' appeal request. The individual must be provided with a final written decision within that time period.

4. If the individual fails to attend the administrative review either in person or via telephone, the appeal will be considered abandoned and the appeal process is exhausted.

B. Advisory Board Review. In the event that a disputed decision is not resolved through the administrative review process, the individual may request a review before the advisory board. The individual must make the request for an advisory board review in writing to the program manager of the trust fund program. This request must be post-marked or received in the office of the program manager within 10 calendar days of receipt of the program manager's decision following the administrative review. The advisory board review will take place at the time of the next regularly scheduled advisory board meeting following the receipt of the individual's written request, unless the program manager deems that it is necessary to address the situation sooner, in which case a special meeting of the advisory board could be called for the purpose of conducting the review. The individual will have the right to submit additional evidence and information and will have the right to bring representation to the advisory board review.

1. In order to insure that the individual is afforded the option of availing himself or herself of the opportunity to appeal decisions impacting their eligibility and/or receipt of services, adequate notification will include:

- a. the decision being reached;
- b. the basis for and effective date of the decision;

c. the specific means for appealing the decision;

d. the individual's right to submit additional evidence and information, including the individual's right to representation; and

e. the name and address of the program manager of the trust fund program. The program manager should be contacted in order to schedule an advisory board review.

2. The advisory board will make an impartial decision based on the provisions of the trust fund policy manual and rules of the program and will provide to the applicant or individual, or if appropriate, the representative, a full written report of findings following the review.

3. A final written decision must be rendered within two weeks of the advisory board review. The decision of the advisory board is final and the appeal process is exhausted.

4. If the individuals fails to attend the appeal hearing either in person or via telephone, the appeal will be considered abandoned and the appeal process is exhausted.

NOTE: The advisory board review will complete the individual's avenue of appeal within the trust fund program.

AUTHORITY NOTE; Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1254 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1911. Program Eligibility

[Formerly LAC 67:VII.1913]

A. In order for an individual to be determined eligible for services, the individual:

1. must meet the definition of *spinal cord injury* or *traumatic brain injury* as defined;
2. must be a resident of state of Louisiana and officially domiciled in the state of Louisiana at the time of injury and during the provision of services;
3. must have a reasonable expectation to achieve improvement in functional outcome;
4. must have exhausted all other governmental and private sources;
5. must provide proof of denial from other sources;
6. must be willing to accept services from an approved facility/program;
7. must be medically stable;
8. must complete and submit appropriate application for services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1913. Ineligibility

[Formerly LAC 67:VII.1915]

- A. A determination of ineligibility is made when:
1. the individual is medically unstable; or
 2. the disabling condition is other than a spinal cord injury or traumatic head injury as defined; or
 3. any of the other ineligibility criteria are not met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), amended by the Department of Health and

Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1915. Fiscal

[Formerly LAC 67:VII.1917]

A. Expenditures on behalf of any one individual shall neither exceed \$15,000 for any one 12-month period nor \$50,000 in total life time expenditures.

B. All applicable state and departmental purchasing policies and procedures must be followed.

C. The trust fund will not purchase vehicles (automobiles, trucks, vans, etc.) or real estate.

D. Prior Written Authorization and Encumbrance. The proper authorizing document(s) must be written before the initiation of goods or services. Failure to obtain prior authorization will result in a denial of products or services. The program manager may approve items to be reimbursed for situations deemed unavoidable/emergency.

E. All monies that are collected for the Traumatic Head and Spinal Cord Injury Trust Fund Program are to be budgeted in the following fiscal year including but not limited to all monies collected and not expended from any and all prior calendar years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S.36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1917. Service Plan

[Formerly LAC 67:VII.1919]

A. Following a determination of eligibility for services, an appropriate individualized assessment will be completed to determine the scope of services. After a case-by-case assessment of needs, a service plan will be developed, implemented, and updated as appropriate. The service plan will be individualized and outcome oriented. The service plan will include as a minimum:

1. specific services to be delivered or rendered;
2. frequency of the service(s) beginning and ending dates;
3. costs of services;
4. service provider.

B. The case record will include all updates and amendments to the service plan.

C. The individual or authorized representative must give informed written consent to the service plan and all amendments. The service plan will be presented by means understandable to the individual served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1919. Services

[Formerly LAC 67:VII.1921]

A. Services are authorized, coordinated and provided for eligible individuals in accordance with each person's service plan.

B. Service plans should be targeted to achieve specific objectives for the specific individuals who are eligible. Additional documentation may be requested to show specific objectives for the requested services or goods.

C. Services should be planned and delivered with specific identifiable anticipated and described outcomes. These outcomes should result in definable improvements in functioning in their homes and communities.

D. Services may include, but are not limited to:

1. evaluations;
2. post-acute medical care rehabilitation;
3. therapies;
4. medication;
5. attendant care;
6. assistive technology and equipment necessary for activities of daily living;
7. durable medical equipment;
8. environmental accessibility modifications (owned by participant or participant's immediate family);
9. vehicle accessibility modifications (owned by participant or participant's immediate family);
10. transportation.

E. The trust fund will not pay for the following. This list is not exclusive:

1. home purchases;
2. vehicle purchases;
3. routine vehicle maintenance;
4. routine home repairs;
5. recreation;
6. routine bills or payments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1921. Service Providers

[Formerly LAC 67:VII.1923]

A. All service providers must be approved by OAAAS.

B. In-state programs/facilities will be given priority for approval as service providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46.2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1256 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1923. Conditions for Case Closure

[Formerly LAC 67:VII.1925]

A. An individual's case can be closed at any time in the process when it has been determined that the individual:

1. has an unstable medical condition;
2. has shown consistent failure to cooperate with the service plan and case managers;
3. reaches the maximum \$50,000 in total expenditures;
4. is eligible for other funding sources;
5. is not available for scheduled services;
6. does not meet the program's eligibility criteria;
7. resides in another state or has a change of residence;
8. fails to maintain a safe and legal home environment;
9. is unable to be contacted by phone or mail;
10. made misrepresentations in the eligibility determination process;

11. made misrepresentations to obtain goods and services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1256 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1925. Limitation of Liability

[Formerly LAC 67:VII.1927]

A. Members of the Louisiana Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board shall have limited liability as specified in R.S. 9:2792.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1256 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 19. Traumatic Head and Spinal Cord Injury

Trust Fund Program Policy

§1901. Program Profile

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1252 (November 1995), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1903. Enabling Legislation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1252 (November 1995), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1905. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1253 (November 1995), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1907. General Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1253 (November 1995), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1909. Confidentiality

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1253

(November 1995), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1911. Individual Appeal Rights

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1254 (November 1995), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1913. Eligibility for Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1915. Ineligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1917. Fiscal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1919. Service Plan

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1921. Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1255 (November 1995), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1923. Service Providers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1256 (November 1995), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1925. Conditions for Case Closure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1256 (November 1995), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

§1927. Limitation of Liability

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:478(G).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1256 (November 1995), repealed by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:000 (January 2014).

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