

**NOTICE OF INTENT**

**Department of Children and Family Services**

**Economic Stability**

**Access to Child Care for Homeless Families**

**(LAC 67:III.5102, 5103, and 5109)**

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:III, Subpart 12 Child Care Assistance Program, Chapter 51 Child Care Assistance Program, Subchapter A Administration, Conditions of Eligibility, and Funding, Section 5102 Definitions and Section 5103 Conditions of Eligibility, and Subchapter B Child Care Providers, Section 5109 Payment. Adoption is pursuant to the authority granted to the department by the Child Care and Development Fund (CCDF) in 45 CFR 98.11.

Section 5102 is being amended to include definitions relative to homeless families. Section 5103 is being amended to conform to the requirements of the Improving Access to Child Care for Homeless Louisiana Families Act, R.S. 46:1443 et seq. Section 5109 is being amended to authorize payments to child care providers on behalf of homeless families.

**Title 67**

**SOCIAL SERVICES**

**Part III. Economic Stability**

**Subpart 12. Child Care Assistance Program**

**Chapter 51. Child Care Assistance Program**

**Subchapter A. Administration, Conditions of Eligibility, and Funding**

**§5102. Definitions**

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Homeless—lacking a fixed, regular, and adequate nighttime residence. The term "homeless" shall encompass children and

youths experiencing the particular conditions and situations provided for in Subtitle B of Title VII of the McKinney-Vento Education for Homeless Children and Youth Act, 42 U.S.C. 11434a(2).

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Seeking Employment—register for work with Louisiana Workforce Commission (LWC) by creating a Helping Individuals Reach Employment (HiRE) account and by maintaining an active work registration within their HiRE account.

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Transitional Living Program—any residential program or facility providing housing to homeless people, including but not limited to: emergency shelters; runaway and homeless youth residential programs or facilities; programs for parenting youth; programs for individuals who are fleeing domestic violence, dating violence, sexual assault, or stalking; transitional housing programs; and prisoner reentry programs.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L. 104-193, 7 CFR Part 273, ACF Guidance: ACYF-IM-CC-05-03, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:2826 (December 2000), amended LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:189 (February 2003), LR 30:1484 (July 2004), LR 31:2262 (September 2005), LR 32:1464 (August 2006), LR 36:845 (April 2010), LR 36:1278 (June 2010), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2535 (November 2010), LR 40:

**§5103. Conditions of Eligibility**

A. - A.1. ...

B. Low-income families not receiving FITAP cash assistance, including former FITAP recipients who are given priority consideration, must meet the following eligibility criteria.

B.1. - 3. ...

4. Effective September 1, 2002, unless disabled as established by receipt of Social Security Administration disability benefits, supplemental security income, Veterans' Administration disability benefits for a disability of at least 70 percent, or unless disabled and unable to care for his/her child(ren) as verified by a doctor's statement or by worker determination, the TEMP must be:

a. effective June 1, 2011, employed for a minimum average of 30 hours per week and all countable employment hours must be paid at least at the federal minimum hourly wage; or

b. attending a job training or educational program for a minimum average of, effective June 1, 2011, 30 hours per week (attendance at a job training or educational program must be verified, including the expected date of completion); or

c. engaged in some combination of employment which is paid at least at the federal minimum hourly wage, or job training, or education as defined in Subparagraph B.4.b of this Section that averages, effective June 1, 2011, at least 30 hours per week;

d. Exception: a household in which all of the members described in Paragraph B.4 of this Section meet the disability criteria is not eligible for child care assistance unless one of those members meets, effective June 1, 2011 the required minimum average of 30 activity hours per week.

e. Exception: The employment and training activity requirements may be waived for a period of 180 days from the effective date of certification for homeless parents or persons acting as parents who demonstrate that they are seeking employment or participating in a transitional living program as defined in Section 5102. There is a six-month lifetime maximum for this exception.

B.5. - 7.c. ...

C. The family requesting child care services must provide the information and verification necessary for determining eligibility and benefit amount, and meet appropriate eligibility requirements established by the state. However, the verification of a child's age and/or immunizations may be waived for a period of 90 days from the effective date of certification for a household in which all of the members meet the homeless definition described in Section 5102, as long as all other eligibility factors described in Section 5103 Subsection B Paragraphs 1-3 and 5-7 are met.

D. Cases eligible for payment may be assigned a certification period of up to twelve months. However, cases based on §5103.B.4.e that have waived the 30 hours per week employment and training requirement for a homeless family shall be assigned a certification period of six months.

E. Effective October 1, 2004, all children receiving services must be age-appropriately immunized according to the schedule of immunizations as promulgated by the Louisiana Office of Public Health, or be in the process of receiving all age-appropriate immunizations. No person is required to comply with this provision if that person or his/her parent or guardian submits a written statement from a physician stating that the immunization procedure is contraindicated for medical reasons, or if the person or his/her parent or guardian objects to the

procedure on religious grounds. However, the verification of a child's age and/or immunizations may be waived for a period of 90 days from the effective date of certification for a household in which all of the members meet the homeless definition described in Section 5102, as long as all other eligibility factors described in Section 5103 Subsection B Paragraphs 1-3 and 5-7 are met.

F. CCAP households must participate in the system designated by the agency for capturing time and attendance. This process may include finger imaging for the Head of Household and their Household Designees. The agency will determine the maximum number of Household Designees allowed on a CCAP case. Finger imaging is a requirement to participate in CCAP if the provider chosen by the client utilizes this as the mechanism for capturing time and attendance. Exceptions may be granted by the Executive Director of ~~Family Assistance~~ Economic Stability or his or her designee on a case by case basis.

G. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, P.L.104-193, Act 58 2003 Reg. Session, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:356 (February 1998), amended LR 25:2444 (December 1999), LR 26:2827 (December 2000), LR 27:1932 (November 2001), LR 28:1490 (June 2002), LR 29:43 (January 2003), LR 29:1106 (July 2003), LR 29:1833 (September 2003), LR 30:496 (March 2004), LR 30:1487 (July 2004), LR 31:101 (January 2005), LR 31:2263 (September 2005), LR 32:1464 (August 2006), LR 33:506 (March 2007), LR 34:692 (April 2008), LR 36:845 (April 2010), LR 36:1278 (June 2010), repromulgated LR 36:1767 (August 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:1374 (May 2011), amended

by the Department of Children and Family Services, Division of Programs, Economic Stability Section, LR 38:3103 (December 2012), LR 40:

**Subchapter B. Child Care Providers**

**§5109. Payments**

A. ...

B. Determination of Payments

1. Payments to providers on behalf of non-FITAP recipients with the exception of homeless families who are exempt from employment and training requirements as defined in §5103.B.4.e will be a percentage of the lesser of:

a. the provider's actual charge multiplied by authorized service days or authorized service hours; or

b. the state maximum rate for authorized services effective January 1, 2007, and with the addition of rates for Class M centers effective October 30, 2009, as indicated below.

Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Class A	\$17.50	\$18.50	\$21.65	\$22.65
Class E	\$15.00	\$16.00	\$18.50	\$19.50
Class R	\$15.00	\$16.00	\$18.50	\$19.50
Class U	\$14.50	\$15.50	\$17.90	\$18.90
Class M	\$17.50	\$18.50	\$21.65	\$22.65

2. Payments to providers on behalf of FITAP recipients and homeless families who are exempt from employment and training requirements as defined in §5103.B.4.e will be the lesser of:

a. the provider's actual charge multiplied by authorized service days or authorized service hours; or

b. the state maximum rate for authorized services effective January 1, 2007, as indicated below.

Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Class A	\$17.50	\$18.50	\$21.65	\$22.65
Class E	\$15.00	\$16.00	\$18.50	\$19.50
Class R	\$15.00	\$16.00	\$18.50	\$19.50
Class U	\$14.50	\$15.50	\$17.90	\$18.90
Class M	\$17.50	\$18.50	\$21.65	\$22.65

B.3. - F. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and P.L. 104-193, ACF Guidance: ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:357 (February 1998), amended LR 25:2445 (December 1999), LR 26:2828 (December 2000), LR 27:1933 (November 2001), LR 28:1491 (June 2002), LR 29:1834 (September 2003), LR 30:1485 (July 2004), repromulgated LR 30:2078 (September 2004), amended LR 31:2265 (September 2005), LR 32:1465 (August 2006), LR 32:2097 (November 2006), LR 33:507 (March 2007), LR 34:692 (April 2008), LR 36:555 (March 2010), LR 36:847 (April 2010), LR 36:1278 (June 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 37:3491 (December 2011), amended by the Department of Children and Family Services, Division of Programs, Economic Stability Section, LR 38:3104 (December 2012), LR 40:

**Family Impact Statement**

1. What effect will this Rule have on the stability of the family? This Rule will have no adverse effect on the family's stability.
2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This Rule will have no effect on the authority and

rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will have no negative effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will have no negative effect on family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, these functions are department functions.

#### **Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### **Small Business Impact Statement**

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

#### **Provider Impact Statement**

The proposed rulemaking is not anticipated to have any impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

#### **Public Comments**

All interested persons may submit written comments through, December 30, 2014, to Lisa Andry, Acting Deputy Assistant Secretary of Programs, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA, 70804.

#### **Public Hearing**

A public hearing on the proposed Rule will be held on December 30, 2014 at the Department of Children and Family



Pursuant to RS 49:983 the Office of the State Register may make technical changes to proposed rule submissions in preparing the Louisiana Register and Louisiana Administrative Code.

Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Suzy Sonnier  
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT

FOR ADMINISTRATIVE RULES

Pursuant to RS 49:983 the Office of the State Register may make technical changes to proposed rule submissions in preparing the Louisiana Register and Louisiana Administrative Code.

Person Preparing Statement: Allison Willeford Department: Children and Family Services
Phone: (225) 342-2530 Office: Economic Stability
Return Address: 627 N. 4th St., P.O. Box 94065 Baton Rouge, LA 70804 Rule Title: Access to Child Care for Homeless Families
Date Rule Takes Effect: March 1, 2015

SUMMARY

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement of the rule proposed for adoption, repeal or amendment. The following summary statements, based on the attached worksheets, 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 Department of Children and Family Services (DCFS) proposes to amend LAC 67:III, Subpart 12 Child Care Assistance Program (CCAP), Chapter 51 Child Care Assistance Program, Subchapter A Administration, Conditions of Eligibility, and Funding, Section 5102—Definitions and Section 5103—Conditions of Eligibility, as well as Subchapter B Child Care Providers, Section 5109—Payments. The proposed rule includes definitions relative to homelessness, temporarily waives certain eligibility requirements for families experiencing homelessness so they may receive child care assistance as required by the Improving Access to Child Care for Homeless Louisiana Families Act (Act 787 of 2014), and authorizes payments to child care providers on behalf of homeless families.

It is anticipated that the implementation of this amendment will result in an estimated programmatic cost in Child Care and Development Block Grant (CCDF) federal funds of \$586,880 for FY 15, \$1,795,853 for FY 16, and \$1,831,770 for FY 17. There will be no increase in the expenditure of state general funds for programmatic costs. Based on a report from the Institute for Children, Poverty, & Homeless, The American Almanac of Family Homelessness 2013, there are an estimated 469 homeless families in Louisiana. The average child care assistance payment is \$233.63 per month (excluding co-payments) based on March 2014 program statistics. The Department estimates an average of 1.34 children per family. Thus, an estimated 628 children of homeless families would receive child care assistance under the proposed rule (469 homeless families x 1.34 average child per family) at a monthly cost of \$146,720 (628 x \$233.63). In FY 15, total costs are estimated at \$586,880 (\$146,720 x 4 months). Historical information indicates that provider costs for child care increase 2% annually. Therefore, for FY 16 child care assistance for homeless families would increase to \$1,795,853 in FY 16 (2% increase on \$1,760,640 = \$146,720 x 12 months) and \$1,831,770 in FY 17. The only other cost associated with this rule is the cost of publishing rulemaking which is estimated to be approximately \$1,917 (Federal) in State Fiscal Year 2014-2015.

II. Estimated Effect on Revenue Collections of State or Local Governmental Units (Summary)

Implementation of this proposed rule will have no effect on revenue collections of State or local governmental units.

III. Estimated Costs and/or Economic Benefits to Directly Affected Persons or Non-Governmental Groups (Summary)

The proposed rule change will reduce barriers for families experiencing homelessness to access child care by temporarily waiving certain eligibility requirements.

IV. Estimated Impact on Competition and Employment (Summary)

This proposed rule will not have an impact on competition and employment for low-income families.

Signature of Agency Head or Designee Date LEGISLATIVE FISCAL OFFICER OR DESIGNEE
Lisa Andry, Acting Deputy Assistant Secretary TYPED NAME AND TITLE OF AGENCY HEAD DATE OF SIGNATURE