

## Chapter 19. Traumatic Head and Spinal Cord Injury

Editor's Note: This Chapter, formerly LAC 67:VII.Chapter 19, was moved to LAC 48:ICChapter 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, 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 has 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;
- d. submitting an annual report with recommendations to the legislature and governor 60 calendar days prior to each Regular Session of the Legislature; and
- e. monitoring, evaluating, and reviewing the development and quality of services 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 40:84 (January 2014), amended by the Department of Health, Office of Aging and Adult Services, LR 44:1905 (October 2018).

### §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 40:84 (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.

*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 paraplegia or quadriplegia.

*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 40:84 (January 2014), amended by the Department of Health, Office of Aging and Adult Services, LR 42:1669 (October 2016), amended by the Department of Health, Office of Aging and Adult Services, LR 44:1905 (October 2018).

**§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.

1. The record shall contain the following:

- a. documentation to support the decision to provide, deny, or amend services;
- b. documentation of the amounts and dates of each service delivery;
- c. service plans and progress notes;
- d. proof of individual identifications; and
- e. any applicable assessments.

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 40:85 (January 2014), amended by the Department of Health, Office of Aging and Adult Services, LR 44:1905 (October 2018).

**§1909. Individual Appeals Rights**  
[Formerly LAC 67:VII.1911]

A. Administrative Review. The administrative review is the first level appeal process used by individuals for a timely resolution of disagreements pertaining to eligibility decisions or a denial of services.

1. All applicants/participants shall be provided written notification to inform them of their appeal rights regarding eligibility and/or the denial of services.

- a. The written notification shall include:
  - i. the decision being reached;
  - ii. the basis for and effective date of the decision;
  - iii. the specific means for appealing the decision;
  - iv. the individual's right to submit additional evidence and information;
  - v. information about the individual's right to representation; and
  - vi. the name and address of the trust fund program.

2. The appeal must be requested by the individual (or their representative) and shall be:

- a. made in writing; and
- b. post-marked or received in the trust fund program office within 15 business days of the date on the written notification of denial.

3. The administrative review may be conducted face-to-face or via telephone with the program manager of the Traumatic Head and Spinal Cord Injury Trust Fund Program.

4. Services shall continue during the administrative review process unless the services being provided have been obtained through:

- a. misrepresentation;
- b. fraud; and/or
- c. collusion or criminal conduct on the part of the individual.

5. The administrative review must take place, a decision reached, and written notification of the decision provided to the individual within 30 calendar days of the receipt of the individuals' appeal request.

6. The written notification of the administrative review decision shall include:

- a. the decision being reached;
- b. the basis for and effective date of the decision;
- c. the specific means for appealing the administrative review decision;

7. 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 second level appeal before the advisory board.

1. Requests for advisory board review shall be:

- a. made in writing to the program manager of the trust fund program;

b. post-marked or received in the trust fund program office within 15 business days of the date on the administrative review decision notice.

2. The advisory board review shall 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.

3. The individual shall have the right to:

- a. submit additional evidence, and
- b. bring representation to the advisory board review.

4. The advisory board shall:

- a. make an impartial decision;
- b. provide a written notice of the decision within 10 business days of the advisory board review.

5. The decision of the advisory board is final and the appeal process is exhausted.

6. If the individual fails to attend the appeal hearing either in person or via telephone, the appeal will be considered abandoned and all appeal processes shall be exhausted.

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 40:85 (January 2014), amended by the Department of Health, Office of Aging and Adult Services, LR 44:1905 (October 2018).

**§1911. Program Eligibility**  
**[Formerly LAC 67:VII.1913]**

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

- 1. meet the definition of spinal cord injury or traumatic brain injury as defined in §1905 above;
- 2. be a resident of the state of Louisiana and officially domiciled in the state of Louisiana at the time of injury and during the provision of services;
- 3. have a reasonable expectation to achieve improvement in functional outcome with assistance;
- 4. have exhausted all other Medicare and Medicaid sources;
- 5. be willing to accept services from an approved facility/program; and
- 6. 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 40:86 (January 2014), amended by the Department of Health, Office of Aging and Adult Services, LR 44:1906 (October 2018).

**§1913. Ineligibility**  
**[Formerly LAC 67:VII.1915]**

A. A determination of ineligibility is made when the individual does not meet program eligibility as defined in §1911 above.

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 40:86 (January 2014), amended by the Department of Health, Office of Aging and Adult Services, LR 44:1906 (October 2018).

**§1915. Fiscal**  
**[Formerly LAC 67:VII.1917]**

A. Limitations. Expenditures on behalf of any one individual shall not:

- 1. exceed \$15,000 during the 12-month period based on the participant's eligibility/anniversary date.
- 2. exceed the total lifetime maximum of \$50,000.

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

C. Prior Written Authorization and Encumbrance. The proper authorizing document(s) must be written before the initiation of goods or services.

1. Failure to obtain prior authorization will result in a denial of products or services.

a. The program manager may approve items to be reimbursed for situations deemed unavoidable/emergency.

D. All monies collected, but not expended, for the Traumatic Head and Spinal Cord Injury Trust Fund Program are carried forward to the following fiscal year.

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 40:86 (January 2014), amended by the Louisiana Department of Health, Office of Aging and Adult Services, LR 44:1907 (October 2018).

**§1917. Service Plan**  
**[Formerly LAC 67:VII.1919]**

A. Once an individual has been determined eligible for services, an appropriate individualized assessment shall be completed in order to:

- 1. determine the scope of services;
- 2. develop, implement, and update service plans as appropriate;

B. The service plan shall:

1. be individualized;
2. be outcome oriented;
3. include (at a minimum) all of the following:
  - a. specific services to be delivered or rendered;
  - b. frequency of the service(s)
  - c. beginning and ending dates;
  - d. costs of services;
  - e. service provider.
4. be presented by means understandable to the individual served.

C. The individual or authorized representative must give informed written consent to the service plan and all amendments.

D. The case record shall include all updates and amendments to the service plan.

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 40:86 (January 2014), LR 44:1907 (October 2018).

#### **§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 shall be written with a goal of achieving specific objectives:

1. related to the participant's injury, and
2. to improve participant's functioning in their home and community.

C. Additional documentation may be requested to justify the need for a particular good/service.

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

1. evaluations;
2. post-acute medical care rehabilitation;
3. therapies;
4. medication and medical supplies;
5. personal care attendant services;
6. assistive technology and equipment necessary for activities of daily living;
7. durable medical equipment;
8. environmental accessibility modifications ;
9. vehicle accessibility modifications;

10. transportation for non-emergency medical appointments.

E. The trust fund will not pay for the following (this list is not all-inclusive):

1. home purchases;
2. vehicle purchases;
3. routine vehicle maintenance and repairs;
4. routine home maintenance and repairs;
5. recreational items or activities;
6. routine bills or payments;
7. funeral expenses
8. legal expenses

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 40:86 (January 2014), amended by the Department of Health, Office of Aging and Adult Services, LR 44:1907 (October 2018).

#### **§1921. Service Providers**

**[Formerly LAC 67:VII.1923]**

A. All service providers must be approved by OAAS.

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 40:87 (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 shown consistent failure to cooperate with the service plan and case managers;
2. reaches the maximum \$50,000 in total lifetime expenditures;
3. has less than \$100 of the lifetime balance remaining for a period of 12 months or more.
4. does not meet the program's eligibility criteria;
5. resides in another state or moves to another state;
6. fails to maintain a safe and legal home environment;
7. is unable to be contacted after two phone call attempts on two separate days and does not respond to written notification within 15 business days of the date on the notice;

8. made misrepresentations in the eligibility determination process;

9. made misrepresentations to obtain goods and services;

10. is incarcerated.

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 40:87 (January 2014), amended by the Department of Health, Office of Aging and Adult Services, LR 44:1907 (October 2018).

**§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 40:87 (January 2014).