

## NOTICE OF INTENT

### Workforce Commission Rehabilitation Services

#### Business Enterprises Program Manual (LAC 67:VII.Chapter 5)

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, Louisiana Workforce Commission (LWC), Louisiana Rehabilitation Services (LRS), proposes to revise seven Sections of the Business Enterprise Program Manual, as it relates to the Randolph-Sheppard Program as a result of 2014 Legislation ACT 761. In §505.A, Federal Legal Authority, the “Department of Social Services” is being removed. In §507.C, State Legal Authority, the term *preference* will be changed to *priority* and the description of where priority applies will be defined. In §509, Definitions, three definitions will be revised to reflect content in R.S. 23:3021 and R.S. 23:3042. There is a second §509, promulgation of business enterprises program policies, the agency will change this Section to §510. And in this Subsection B., the Department of Social Services will be removed. In Section §515.A, Organization of State Licensing Agency, “Louisiana Department of Social Services” will be removed. In §519.H, State Licensing Agency Responsibilities, the agency will add procedures for enforcing Randolph Sheppard priority added in R.S. 23:3023(F) and (G). In §519.I, as per R.S. 23:3023(D), the agency will add rules and regulations regarding employment targets. In §519.J, the agency will add a time frame for a new reporting requirement in R.S. 23:3021(C). In §527, agency will be revised to reflect content in R.S. 23:3042.8.

#### Title 67

### SOCIAL SERVICES

#### Part VII. Rehabilitation Services

#### Chapter 5. Business Enterprises Program Manual

#### §505. Federal Legal Authority

A. The Rehabilitation Act of 1973 as amended by the Rehabilitation Act Amendments of 1986 and 1992. In accordance with federal law under title I of the Rehabilitation Act of 1973 (Public Law 93-112) as amended, including the Rehabilitation Act amendments of 1986 (Public Law 99-506), and the Rehabilitation Act amendments of 1992 (Public Law 102-569), vocational and other rehabilitation services are offered to individuals with disabilities through Louisiana Rehabilitation Services.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:527 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:

#### §507. State Legal Authority

A. - B. ...

C. R.S. 23.3023 gives priority to the blind in operation of vending stands, vending machines, cafeterias, and other small business concessions to be operated in the portions, or portions thereof, of properties that those state agencies, boards, commissions, and institutions own, maintain, occupy, or control. No other vending stands, vending machines, cafeterias, or small business concessions shall be

operated on the same premises with vending stands, vending machines, cafeterias, or other small business concessions operated, or contemplated, under the blind business enterprise program, except as provided by R.S. 23:3023.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:528 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:

#### §509. Definitions

A. The following words or terms, when used in this manual, shall have the following meaning unless the context clearly indicates otherwise.

\*\*\*

*Active Participation*—an ongoing process of good faith negotiations between Louisiana Rehabilitation Services and the Louisiana Blind Vendors elected committee to achieve joint planning of policies, procedures, standards, rules, and regulations affecting the overall operation of the Business Enterprise Program prior to implementation by Louisiana Rehabilitation Services. Louisiana Rehabilitation Services shall have final authority and responsibility in all decisions relative to the administration and operation of the Business Enterprise Program. Active participation shall include the requirements set forth in 34 CFR 395.14(b)(1), (3), and (4).

\*\*\*

*Blind Person*—a person who, after examination by a licensed physician skilled in the diseases of the eye or by a licensed optometrist, has been determined to have:

a. not more than 20/100 central visual acuity in the better eye with correcting lenses; or

b. an equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

\*\*\*

*Management Services*—supervision, inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis to support and improve vending facilities operated by blind vendors. Management services do not include those services or costs which pertain to the on-going operation of an individual facility after the initial establishment period.

\*\*\*

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

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:528 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:

#### §510. Promulgation of Business Enterprises Program Policies

A. ...

B. The rulemaking authority is Louisiana Rehabilitation Services, hereinafter referred to as the state licensing agency (SLA). Promulgation of rules and procedures governing the Business Enterprises Program follows the process Louisiana Administrative Procedure Act (R.S. 49:950 et seq.).

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

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:530 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:

#### **§515. Organization of State Licensing Agency**

A. Louisiana Rehabilitation Services (LRS), is designated as the sole state agency under a state plan for vocational rehabilitation services approved pursuant to the provisions of the Rehabilitation Act of 1973, (29 U.S.C. Ch. 16) and approved by Rehabilitation Services Administration as the state licensing agency.

1. - 8.c. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:530 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:

#### **§519. State Licensing Agency Responsibilities for Business Enterprise Operations**

A. - G.4.d. ...

H. Enforcement Randolph Sheppard Priority. The SLA is responsible for notifying entities of the Randolph Sheppard priority to operate vending services as specified in R.S. 23:3023. If there is a dispute that cannot be resolved by the parties, the SLA will file for a full evidentiary hearing as follows.

1. Full Evidentiary Hearings. A full evidentiary hearing shall be conducted by an impartial and qualified official designated by Louisiana Rehabilitation Services with no involvement or vested interest in the dispute at issue.

a. The hearing offices shall make a written report of the evidence presented, the laws and rules used in determining a resolution, and the resolution itself.

b. Report shall be issued to all parties within 30 calendar days of the conclusion of the full evidentiary hearing.

c. The decision shall be final and conclusive unless fraudulent, or unless either party institutes a suit pursuant to R.S. 23:2023(G).

I. Implementation of R.S. 23:3023(D): Employment and Training Targets for Persons who are Blind or Otherwise Disabled

1. Requirement applies to:

a. each blind vendor who employs greater than 10 employees and operates a BEP facility under a permit ratified or issued after the promulgation of this Subsection;

b. businesses that provide services to BEP facilities that employ greater than ten employees and operate under a contract ratified or issued after the promulgation of this subsection.

2. Employer Guidelines. Specific targets will be determined by the employer and may include:

a. establishing numerical hiring goals to include individuals with disabilities and incorporate these goals in their hiring practices;

b. engaging in outreach activities and targeted recruitment of individuals with disabilities;

c. utilizing services provided by Louisiana Rehabilitation Services to access a qualified pool of candidates for on the job training and temporary and permanent employment opportunities.

3. LRS' role will be to govern and implement initiatives to provide education, outreach and information regarding effective business practices that foster employment of blind or otherwise disabled individuals. The expected outcome of these strategies, is to increase job opportunities for individuals who are blind or otherwise disabilities.

J. Louisiana Rehabilitation Services shall submit a quarterly performance report of the agency's programs for blind persons to the legislature by the end of the month following the end of the quarter. An annual report shall be submitted no later than 60 days prior to the convening of the Regular Legislative Session.

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

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:532 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:

#### **§527. The Elected Committee of Managers**

A. ...

B. Paragraphs 527.B.1-2 provide guidance in approaching the degree of participation by the ECM.

1. Active participation means an ongoing process of good faith negotiations between the ECM and SLA to achieve joint planning of policies, procedures, standards, rules and regulations affecting the overall operation of the Business Enterprise Program prior to implementation by the SLA.

2. The SLA shall have final authority and responsibility in all decisions relative to the administration and operation of all aspects of the Business Enterprises Program

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Social Service, Rehabilitation Services, LR 25:532 (March 1999), amended by the Workforce Commission, Rehabilitation Services, LR 41:

#### **Family Impact Statement**

In compliance with R.S. 49:972 the impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability or autonomy by increasing access to and participation in the Vocational Rehabilitation/Business Enterprise Program. This Rule will not affect the authority and rights of parents regarding the education and supervision of their children or behavior and personal responsibility of children.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973(B) due to increase participation in the Vocational Rehabilitation/Business Enterprise Program which is expected to reduce dependence on public assistance programs and enable employment and independence.

### Small Business Statement

The proposed Rule's impact on small business has been considered in accordance with R.S. 49:965.6 and it is estimated that the proposed actions will have negligible impact on small businesses as defined in the Regulatory Flexibility Act.

### Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on the staffing level requirements or qualifications required to provide the same level of service; the total direct and indirect effect on the cost to the providers to provide the same level of service; or the overall effect on the ability of the provider to provide the same level of service.

### Public Comments

Interested persons may submit written comments, data, or opinions through August 27, 2015 to Mark S. Martin, LRS Director, P.O. Box 91297, Baton Rouge, LA 70821-9297. Copies of the of the revised policy may be obtained at Louisiana Rehabilitation Services, 950 North Twenty-Second Street, Baton Rouge, LA 70802, or at each of its eight regional offices, and at the Office of the State Register, 1201 North Third Street, Baton Rouge, LA, or on the Office of the State Register's website at [www.doa.louisiana.gov/osr/osr.htm](http://www.doa.louisiana.gov/osr/osr.htm).

### Public Hearing

A public hearing on the proposed Rule will be held on August 27, 2015 at the Baton Rouge Regional Office, 3651 Cedarcrest Avenue, Baton Rouge, LA, beginning at 9 a.m. Individuals with disabilities who require special services should contact Judy Trahan, Program Coordinator, Louisiana Rehabilitation Services, at least 14-working days prior to the hearing if special services are needed for their attendance. For information or assistance, call (225) 219-2225 or (800) 737-2958 (V/TDD).

Curt Eysink  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Business Enterprises Program Manual

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed rule amends Louisiana Administrative Code (LAC) Title 67 Social Services, Part VII Rehabilitation Services, and Chapter 5 Business Enterprises Program Manual to comply with ACT 761 of 2014 that authorized technical changes to existing law. The proposed rule amends seven sections of the Business Enterprise Program Manual for the Randolph-Sheppard Program. The changes are as follows: (1) removes the "Department of Social Services" throughout the chapter; (2) replaces the term "preference" with "priority" regarding vending/cafeteria services to certain facilities in Section 507 State Legal Authority; (3) revises definitions to reflect language in the law, (4) corrects a numbering error; (5) adds procedures for enforcing Randolph Sheppard priority, adds rules and regulations regarding employment targets, and time frames for new reporting requirements in Section 519 State Licensing Agency Responsibilities for Business

Enterprises Operations, and (6) revises content to reflect language in the law.

The proposed rule will not impact the overall expenditures of the department. The only costs associated with this proposed rule are administrative expenses necessary for the promulgation the rule. It is estimated that \$1,200 of Federal funds will be expended in FY 15 for the state's administrative expense for promulgation of this proposed rule and the final rule. The cost of rulemaking is routinely included in the agency's annual operating budget.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no anticipated effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule is not anticipated to have a fiscal impact on non-governmental groups. However, the exact impact of the proposed rule that strengthens "priority" for Randolph Sheppard Managers is not known.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not anticipated to have an impact on competition and employment.

Curt Eysink  
Executive Director  
1507#075

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office