

**§13703. Participant Qualifications and Admissions Criteria**

A. In order to qualify for NOW, an individual must be three years of age or older, offered a waiver opportunity (slot) and meet all of the following criteria:

1. have a developmental disability as specified in R.S. 28:451.2;
2. be on the developmental disabilities (DD) request for services registry (RFSR), unless otherwise specified through programmatic allocation in §13707;
3. meet the financial eligibility requirements for the Medicaid Program;
4. meet the requirements for an ICF-DD level of care which requires active treatment of a developmental disability under the supervision of a qualified developmental disability professional;
5. have assurance that health and welfare of the individual can be maintained in the community with the provision of NOW services;
6. have justification, as documentation in the approved plan of care, that NOW services are appropriate, cost effective and represent the least restrictive environment for the individual;
7. be a resident of Louisiana; and
8. be a citizen of the United States or a qualified alien.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1201 (June 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:96 (January 2014).

**§13704. Resource Allocation Model**

A. Effective February 1, 2009, uniform needs-based assessments and a resource allocation model will be implemented in the service planning process for the Medicaid recipients participating in the New Opportunities Waiver.

1. The uniform needs-based assessments shall be utilized to determine the level of support needs of individuals with developmental disabilities.
2. The purpose of the resource allocation model is to assign service units based on the findings of the assessments.
3. Within the resource allocation model, there is a determination of an acuity level for individual and family support (IFS) services.
  - a. The participant or his/her representative may request a reconsideration and present supporting documentation if he/she disagrees with the amount of assigned IFS service units. If the participant disagrees with the reconsideration decision, he/she may request a fair hearing through the formal appeals process.

4. Implementation of the resource allocation model was phased-in for the allocation of new waiver opportunities and renewal of existing waiver opportunities beginning July 1, 2009.

B. The following needs-based assessment instruments shall be utilized to determine the level of support needs of NOW participants:

1. the Supports Intensity Scale (SIS); and
2. Louisiana Plus (LA Plus).

C. The Supports Intensity Scale is a standardized assessment tool designed to evaluate the practical support requirements of individuals with developmental disabilities in 85 daily living, medical and behavioral areas.

1. SIS measures support needs in the areas of:
  - a. home living;
  - b. community living;
  - c. lifelong learning;
  - d. employment;
  - e. health and safety;
  - f. social activities; and
  - g. protection and advocacy.

2. SIS then ranks each activity according to frequency, amount and type of support. A supports intensity level is determined based on a compilation of scores in general supports, medical supports and behavior supports.

D. Louisiana (LA) Plus is a locally developed assessment tool designed to identify support needs and related information not addressed by SIS. LA Plus serves as a complement to SIS in the support planning process. LA Plus is used to evaluate the individual's support needs based on information and data obtained from four areas of the person's life.

1. Support needs scale measurements including:
  - a. material supports;
  - b. vision related supports;
  - c. hearing related supports;
  - d. supports for communicating needs;
  - e. positive behavior supports;
  - f. physicians supports;
  - g. professional supports (e.g., registered nurse, physical therapist, occupational therapist, etc.); and
  - h. stress and risk factors.
2. Living arrangements and program participation including:
  - a. people living in the home;
  - b. natural supports in the home;

- c. living environments; and
- d. supports and service providers.

3. Medical and diagnostic information findings including:

- a. diagnoses;
- b. medications and dosages; and
- c. need for relief from pain or illness.

4. Personal satisfaction reports including:

- a. agency supports provided at home;
- b. work or day programs;
- c. living environment;
- d. family relationships; and
- e. social relationships.

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### **§13707. Programmatic Allocation of Waiver Opportunities**

A. The request for services registry, hereafter referred to as “the registry,” shall be used to evaluate individuals for waiver eligibility and to fill all waiver opportunities for persons with developmental disabilities. The next individual on the registry shall be notified in writing that a waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment. The individual shall then choose a case management agency that will assist in the gathering of the documents needed for both the financial eligibility and medical certification process for level of care determination. If the individual is determined to be ineligible, either financially or medically, that individual shall be notified in writing. The next person on the registry shall be notified as stated above and the process continues until an eligible person is assigned the waiver opportunity. A waiver opportunity shall be assigned to an individual when eligibility is established and the individual is certified. By accepting a waiver opportunity, the person’s name shall be removed from the registry.

B. Right of Refusal. A person may be designated inactive on the registry upon written request to OCDD. When the individual determines that he/she is ready to begin the waiver evaluation process, he/she shall request, in writing, that his/her name be removed from inactive status. His/her original protected request date will be reinstated. In addition, persons who left a publicly-operated facility after July 1, 1996 and who would have received a waiver opportunity, but chose another option at the time of discharge, may request access to a waiver opportunity through OCDD or its designated agent. OCDD will verify that the individual meets the criteria for this option and provide access to the next available waiver opportunity based on his/her date of discharge from the publicly-operated facility. That will become his/her protected date.

C. Utilizing these procedures, waiver opportunities shall be allocated to the targeted groups cited as follows.

1. A minimum of 90 waiver opportunities shall be available for allocation to foster children in the custody of the Department of Children and Family Services (DCFS),

Child Welfare Division or its successor, who successfully complete the financial and medical certification eligibility processes and are certified for the waiver. DCFS Child Welfare or its successor is the guardian for children who have been placed in DCFS custody by court order. DCFS or its successor shall be responsible for assisting the individual in gathering the documents needed in the eligibility determination process, preparing the plan of care, and submitting the plan of care document to OCDD.

2. A minimum of 160 waiver opportunities shall be available for people living at Pinecrest Supports and Services Center (formerly known as Pinecrest Development Center), or its alternates at private ICFs-DD, who have chosen to receive community-based waiver services, have successfully completed the financial eligibility and medical certification processes, and are certified for the waiver. For the purposes of assigning these waiver opportunities, an alternate is defined as a person who lives in a private ICF-DD, chooses to apply for waiver participation, is eligible for the waiver, and vacates a bed in the private ICF-DD for an individual being discharged from a publicly-operated facility. A person living at Pinecrest shall have the option to select a private ICF-DD placement in the area of his/her choice in order to designate the individual being discharged from the private ICF-DD as his/her alternate. The bed being vacated in the private ICF-DD must be reserved for 14 days for the placement of a person being discharged from a publicly-operated facility. The person’s discharge from a publicly-operated facility and his/her subsequent placement in a private ICF-DD is to occur as close as possible to the actual discharge of the alternate from the private ICF-DD and is not to exceed 14 days from the date of the alternate’s discharge and certification for the waiver. The bed may be held vacant beyond the 14 days with the concurrence of the private ICF-DD provider.

3. Except for those waiver opportunities addressed in Paragraphs C.1, 2, 6 and 7 of this Section, waiver opportunities vacated during the waiver year shall be made available to persons residing in or leaving any publicly-operated ICF-DD at the time the facility is transferred to any private ICF-DD under a cooperative endeavor agreement with OCDD, or their alternates.

4. A waiver opportunity will be reserved for persons who choose to transition from a publicly-operated facility to community-based waiver services. The reservation of a waiver opportunity shall not exceed 120 days. However, justification to exceed this 120-day reservation period may be granted as needed.

5. Waiver opportunities not utilized by persons living in public ICFs-DD or their alternates shall be divided between:

- a. the next individual on the registry who is living in either a nursing facility or private ICF-DD; and
- b. the next individual on the registry who is residing in the community.

6. Ten waiver opportunities shall be used for qualifying persons with developmental disabilities who receive services from the Developmental Neuropsychiatric Program (DNP). This is a project between OCDD and the Office of Behavioral Health in the development of coordinated wrap-around services for individuals who choose to participate in the waiver and meet the financial and medical eligibility requirements for the waiver.

7. Two hundred and eighty-one waiver opportunities shall be used for qualifying individuals with developmental disabilities who require emergency waiver services. In the event that a waiver opportunity is vacated, the opportunity will be returned to the emergency pool for support planning based on the process for prioritization. Once the 281 waiver opportunities are filled, then supports and services based on the priority determination system will be identified and addressed through other resources currently available for individuals with developmental disabilities.

8. Funded waiver opportunities not addressed above shall be available for allocation to the next individual on the registry who successfully completes the financial eligibility and medical certification process and is certified for the waiver.

D. The Office for Citizens with Developmental Disabilities has the responsibility to monitor the utilization of NOW waiver opportunities. At the discretion of the OCDD, specifically allocated waiver opportunities may be reallocated to better meet the needs of citizens with developmental disabilities in the State of Louisiana.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

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### **§13709. Emergency Opportunities**

A. Requests for emergency waiver services shall be made through the local governing entities (LGEs) responsible for coordination of services for persons with developmental disabilities. When a request for emergency services is received, the LGE shall complete a standardized screening tool that incorporates standardized operational procedures to determine the priority of the individual's urgency of need in a fair and consistent manner.

B. To be considered for emergency waiver supports, the individual must need long-term supports, not temporary or short-term supports.

C. Effective for dates of service on or after September 20, 2016, an individual must meet the required criteria within the OCDD standardized screening tool in order to qualify for emergency waiver services.

1. Documentation that any one of the following criteria within the OCDD standardized screening tool has been met will qualify an individual for an emergency waiver opportunity:

a. the caregiver is no longer able to provide support and the individual's health and/or safety is placed at risk;

b. the individual has no other support available after the death of a caregiver;

c. the caregiver needs immediate assistance to provide support and maintain the individual's current living situation;

d. the individual has been placed in custody and, as a result, requires essential, community-based supports;

e. the individual requires long term care supports to address imminent risk of incarceration;

f. the individual needs immediate supports to stay in his/her own home;

g. intolerable conditions exist within the residence with an immediate need for a new residential option;

h. the individual's eligibility will expire and/or the individual "ages out" of the program or funding source providing essential supports within the next 90 days; and

i. additional supports are needed to ensure health and safety and/or to keep the individual from being placed in an institutional situation.

D. For individuals who meet the criteria for an emergency waiver opportunity, as determined by the OCDD standardized screening tool, the LGE will forward copies of all documentation used for determination of eligibility for NOW emergency services, including the standardized screening tool, to the appropriate DHH emergency review manager at OCDD.

1. OCDD will verify each qualifying applicant's request for services registry (RFSR) date and assign waiver opportunities in order, based on their protected RFSR dates.

2. In instances when there are more requests than available emergency waiver opportunities, qualifying individuals who have the earliest protected request dates on the NOW RFSR will receive their opportunities first.

3. If there are more applicants than available emergency waiver opportunities, those individuals may reapply when additional emergency waiver opportunities become available.

E. The LGE will keep all of the supporting documentation used to determine whether an applicant has met emergency waiver criteria.

F. Individuals who do not meet the criteria and are denied an emergency waiver opportunity have the right to an administrative appeal.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 31:2901 (November 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:71 (January 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 42:1520 (September 2016).