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| SUBJECT Supported Living Cost Containment Measures | YEAR 1-8-08 | PROCEDURE NUMBER APD 17-001 |
| PROCEDURE MAINTENANCE ADMINISTRATOR: Home and Community-Based Services | | |
| PURPOSE: This operating procedure describes the process to implement cost containment measures for all Home and Community Based Services (HCBS) Waivers funding supported living arrangements initiated after July 1, 2007. Excludes all General Revenue funded supported living arrangements. | | |

I. BACKGROUND

The General Appropriations Acts for Fiscal Years 2007-08 included proviso language directing the Agency to implement cost containment measures for any new individual requesting waiver supported living services. Further, these measures will include the total annual cost of the provision of supported living services as determined through the support plan process and shall not exceed the total annual cost of supports and services that would be provided if the individual received equivalent services in an appropriate licensed residential facility. There is no exception for this process.

II. SCOPE

This operating procedure applies to individuals requesting supported living services through the Agency for Persons with Disabilities (APD) purchased with the Home and Community Based Services Waivers after July 1, 2007.

III. DEFINITIONS

- A.** Cost plan means the document that authorizes services approved for payment by the area. The cost plan must contain an accurate list of all services needed by the focus person regardless of the funding source. It should include those services provided by the family, and generic community supports, as well as those supports requested from the waiver.
- B.** Group Home Facility: As defined in Chapter 393.063, F.S., the term means a licensed residential facility, which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of individuals residing in the home. The capacity of such a facility shall be at least four (4) but not more than fifteen (15) individuals.
- C.** Foster Care Facility. As defined in Chapter 393.063, F.S., the term means a residential facility, which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs of individuals residing in the home. The capacity of such a facility may not be more than three (3) individuals.

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| Jane Johnson, Director (signature on file) | |
| Effective Date February 7, 2006 | Revision Date This operating procedure was established February 2006. |

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- D. Handbook. The Developmental Disabilities Waiver Services Medicaid Coverage & Limitations Handbook, dated June 2005, and incorporated by reference in Agency for Health Care Administration (AHCA) rule 59G-13.0812, F.A.C. The Handbook can be found at the AHCA website: <http://floridamedicaid.acs-inc.com/index.jsp>
- E. Prior Service Authorization (PSA). A procedure conducted by the department or an agent of the department to determine medical necessity and cost-effectiveness of services requested by individuals receiving services under the waivers. Selection criteria for those services that must be approved are specified in the operating procedures for that contractor.
- F. Individual. An individual who is eligible for and receiving Medicaid services through APD.
- G. Residential Habilitation with a Behavioral Focus. A waiver service listed in the Handbook which prescribes the minimum service requirements of licensed facilities providing this service and types of individuals eligible for such services.
- H. Intensive Behavioral Residential Habilitation. A waiver service listed in the Handbook which prescribes the minimum service requirements of licensed facilities providing this service and types of individuals eligible for such services.
- I. Support Coordinator. Pursuant to Chapter 393.063, F.S., the term means a person who is designated by the Agency to assist individuals and families in identifying their capacities, needs, and resources, as well as finding and gaining access to necessary supports and services; coordinating the delivery of supports and services; advocating on behalf of the individual and family; maintaining relevant records; and monitoring and evaluating the delivery of supports and services to determine the extent to which they meet the needs and expectations identified by the individual, family, and others who participated in the development of the support plan.
- J. Supported Living. As defined in Chapter 393.063, F.S., the term means a category of individually determined services designed and coordinated in such a manner as to provide assistance to adult individuals who require ongoing supports to live as independently as possible in their own homes, to be integrated into the community, and to participate in community life to the fullest extent possible.
- K. Waivers. Home & Community-Based Services (HCBS) Waivers (waivers). A federally approved Medicaid program, authorized under Section 1915(c) of the Social Security Act and governed by 42 CFR 441, Subpart G, that provides a package of home and community-based supports and services to eligible individuals with developmental disabilities who live at home or in a home-like setting. The HCBS Waivers include the Developmental Disabilities Waiver and the Family and Supported Living Waiver.

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IV. PROCEDURES

Comparison of Cost Plan Procedures

- A. Effective July 1, 2007, the total proposed cost for any new supported living arrangement funded under the Home and Community Based Services Waivers will include the total annual cost of the provision of supported living services and shall not exceed the total annual cost of equivalent services in an appropriate licensed residential facility.
- B. If the individual seeking supported living may be eligible for residence in a licensed residential facility that provides residential habilitation with a behavioral focus, the request will be forwarded to the Area Office behavior analyst for review and approval. The request shall include information about other options, and the cost of such options, that are available through residential habilitation. If the support coordinator feels the individual qualifies for behavior focus or intensive behavior supports, they will contact the Area behavior analyst who will make the final determination. If the behavior analyst determines that the individual qualifies for residential habilitation with a behavioral focus or Intensive Behavioral Residential Habilitation services, the support coordinator will use the appropriate rate that corresponds with the intensity of services that are medically necessary as the basis for comparison to the cost of supported living.
- C. The proposed cost for both the supported living and residential options must show the total annual cost of services and supports for the individual in each setting for all medically necessary supports and services. These will include all HCBS waiver services appropriate to the waiver in which the individual is enrolled to receive services that are medically necessary. These services may include, but are not limited to, residential habilitation, adult day training, supported employment, supported living coaching, in-home supports, behavioral supports, nursing and medical supports, transportation and other medically necessary supports and services as needed. The cost proposal for both supported living and residential care must be comprehensive and include all services necessary to meet the needs of the individual. In many cases the initial start up for supported living is higher than the average annual cost. The Area Office will review the cost comparison to verify its accuracy and relevance necessary to adequately meet the needs of the individual and if necessary, request additional information.
 - 1. The individuals' SSI or other third party benefits will offset costs in both options, and, therefore, do not have to be included in this cost comparison.
 - 2. General Revenue funded In-Home Subsidies should not be included in the cost comparison.
- D. The proposed cost comparison for individuals seeking supported living who are legally married or individuals who have children who live with them must reflect individual cost or each person. Example: Spouse A will have an individual cost for a licensed facility and Spouse B will have an individual cost for a licensed residential facility. The total of both spouses' residential facility costs will then be compared to the total cost to support the couple in a supported living arrangement.

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- E. The support coordinator will prepare the cost comparison using the Licensed Residential Facility Cost Plan Comparison Form (Appendix I). The form will be used for cost comparison purposes only and should not be confused with a traditional “cost plan.” The completed form and the individual’s current support plan (plus any updates) are all that are required.
- F. If the cost of a supported living arrangement is equal to or less than the cost of a licensed residential facility, the request for supported living will be submitted directly for PSA review by the support coordinator and a copy provided to the Area Office.
- G. If an individual qualifies for residential habilitation with a behavioral focus or Intensive Behavioral Residential Habilitation services, the Area Office behavior analyst will review and make a recommendation to verify they qualify before a cost comparison is prepared.
- H. If an individual has a court order, which limits with whom or where the individual lives (an example would be sex offenders), the request for supported living will be submitted to the Central Office for review.
- I. Subsequent to the cost containment review and approval, if an individual experiences a significant change in condition or circumstance that may require an increase or change to their service array, the individual’s WSC shall submit a request through the established Prior Service Authorization procedure. A new cost containment review is not necessary.

Due Process Notification

- A. Individuals who are denied their choice of a supported living arrangement are entitled to notification of their right to due process to challenge APD’s denial (Appendix II).

Appendix I

**SUPPORTED LIVING AND
LICENSED RESIDENTIAL FACILITY COST PLAN COMPARISON**

AREA: _____

NAME OF INDIVIDUAL: _____

DATE OF REQUEST: _____

ANNUAL RECURRING COSTS FOR SUPPORTED LIVING: \$ _____

ANNUAL RECURRING COSTS FOR RESIDENTIAL FACILITY: \$ _____

Supported Living Cost Plan

| <i>SUPPORTS</i> | <i>12 MONTH COST PLAN</i> | <i>LESS NON RECURRING COSTS</i> | <i>NET RECURRING ANNUAL COSTS</i> | <i>COMMENTS</i> |
|--|-------------------------------|---|---|-----------------|
| In Home Subsidy not to be included | | | | |
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Licensed Residential Facility Cost Plan

| <i>SUPPORTS</i> | <i>12 MONTH COST PLAN</i> | <i>LESS NON RECURRING COSTS</i> | <i>NET RECURRING ANNUAL COSTS</i> | <i>COMMENTS</i> |
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Support Coordinator: _____ **Date:** _____

Appendix II

*[Sample Letter Notifying a Individual that their Request for
Supported Living Services has been Denied]*

On APD letterhead

(Insert date of mailing)

Name of individual

Address of above

City, State, Zip

THIS LETTER NEEDS TO BE UPDATED FOR TIMEFRAMES, DOAH, AND SUBMISSION TO THE AGENCY CLERK.

Dear (enter name of individual):

You recently requested supported living services. Currently, we are not permitted to provide such services unless it can be demonstrated that the annual cost of such services will not exceed the annual costs of receiving equivalent services in an appropriate licensed residential facility. Your request has been denied for the following reasons:

(Insert detail explaining why and on what basis the determination was made)

Notice of Administrative Hearing Rights

If you disagree with the Agency's decision, you have the right to an administrative hearing before the Division of Administrative Hearings ("DOAH") to dispute that decision. At that hearing, you will have an opportunity to present evidence and argument on all issues, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to the presiding officer's recommended order, and to be represented by counsel or a qualified representative. The Agency for Persons with Disabilities will request that the hearing be conducted locally, for your convenience. DOAH's website at www.doah.state.fl.us, provides a brochure explaining how to represent yourself at administrative hearings.

Section 393.125(c), Florida Statutes, states that your hearing request must be provided to the Agency, in writing, within 30 days of your receipt of this notice. Additionally, section 120.54(5)(b)5, Florida Statutes, requires that you include the following information in your hearing request:

1. The name, address, and telephone number of the party making the request and the name, address and telephone number of the party's counsel or representative upon whom service of pleadings and papers must be made;
2. A statement that you are requesting an administrative hearing and dispute the facts alleged by the Agency, in which case the facts in dispute must be identified, or that you are requesting a hearing but do not dispute the facts underlying the Agency's decision;
3. A reference to, or copy of, this Agency decision and the date you received it.

Please be advised that mediation is not available in this proceeding.

You may request a hearing or obtain assistance with your request for hearing by contacting the following Agency for Persons with Disabilities area office:

Insert /region Agency for Persons with Disabilities Office
Address
Phone number
Fax number

If you have any questions about this letter or would like to meet with a representative of the Agency, please contact _____ at _____ (*insert phone number*). However, if you elect to meet with the Agency's representative, this meeting will not affect your right to request a hearing or the timeframes within which you must request a hearing.

Sincerely,

Attachment: "Guide to Administrative Hearings" brochure