

OPERATING PROCEDURE
APD OP 17-001

STATE OF FLORIDA
AGENCY FOR PERSONS
WITH DISABILITIES
TALLAHASSEE, February 8, 2006

SUPPORTED LIVING

SUPPORTED LIVING COST CONTAINMENT MEASURES

1. Purpose.

To provide APD Area Offices with uniform practices and procedures to implement cost containment measures for Home and Community Based Services (HCBS) waiver-funded supported living arrangements initiated after July 1, 2004.

2. Scope.

This directive pertains to APD recipients requesting supported living services purchased with the Family and Supported Living (FSL) or Developmental Disabilities (DD) HCBS Waivers after July 1, 2004.

3. Background.

The General Appropriations Acts for Fiscal Years 2004-05 (line items 330 and 333), Ch. 2004-268, L.O.F., and 2005-06, Ch. 2005-70 (line items 611 and 614), L.O.F., included proviso language directing the department/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 consumer received equivalent services in an appropriate licensed residential facility. In addition, the department/agency will establish guidelines and a waiver process to address unique situations where supported living, even at a higher cost, is the most efficient and effective residential option available."

4. Explanation of Terms.

- a. Cost Plan. The form used by the recipient's support coordinator listing all services requested by the recipient on their support plan, regardless of funding source, and including the anticipated cost of each waiver service.
- b. Group Home Facility. As defined in § 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 its residents. The capacity of such a facility shall be at least 4 but not more than 15 residents.
- c. Handbook. The Developmental Services Waiver Services Medicaid Coverage & Limitations Handbook, dated October 2003, and incorporated by reference in Agency for Health Care Administration (AHCA) rule 59G-8.200, F.A.C. The Handbook can be found at the AHCA website: <http://floridamedicaid.acs-inc.com/index.jsp>.
- d. Prior Service Authorization (PSA). The process of approving Medicaid waiver service requests, conducted by a private APD-contracted entity, for the purpose of ensuring that

such services are medically necessary and meet Handbook exclusions, limitations, and requirements.

- e. Recipient. An APD client who is eligible for and receiving Medicaid services.
- f. Residential Habilitation with a Behavioral Focus. A waiver service listed in the Handbook which prescribes the minimum –service requirements of facilities providing this service and types of recipients eligible for such services.
- g. Intensive Behavioral Residential Habilitation. A waiver service listed in the Handbook which prescribes the minimum service requirements of facilities providing this service and types of recipients eligible for such services.
- h. Support Coordinator. Pursuant to § 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.
- i. Supported Living. As defined in § 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 clients 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.
- j. 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 persons with developmental disabilities who live at home or in a home-like setting.

5. Comparison of Cost Plan Procedures.

- a. Effective July 1, 2004, the total proposed cost for any new supported living arrangement funded under the FSL or DD waivers shall be compared to a proposed cost for the recipient to reside in a licensed residential facility appropriate to meet the recipient's needs.
- b. Unless exempted or excepted (see section 6 below), total costs for services necessary for a supported living arrangement shall be equal to, or less than, the total amount of funds necessary to support the client in an appropriate 6-bed group home facility licensed in accordance with chapter 393, F.S., and regulated pursuant to Chapter 65B-6, F.A.C.
- c. The current residential habilitation rate table will be used for estimating costs, based on a provider operating 1-6 residential sites.
- d. If the client seeking supported living may be eligible for residence in a group home 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 behavior analyst determines that the individual qualifies for residential habilitation with a behavioral focus or Intensive Behavioral Residential

Habilitation services, the APD Area Office 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.

- e. 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 requested and may include, but is not limited to, residential habilitation, non-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.
 - 1) The recipients' 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.
- f. The support coordinator will prepare the comparison using the Supported Living and Group Home Cost Comparison Form (Appendix I). The form will be used for comparison purposes only and should not be confused with a traditional "cost plan." The completed form and the recipient's current support plan (plus any updates) are all that are required.
- g. If the cost of a supported living arrangement is equal to or less than the cost of a residential group home, the request for supported living will be submitted directly for PSA review by the support coordinator and a copy provided to the Area Office.
- h. If the supported living cost is greater than the cost of residing in a group home facility, a request for an exemption or exception may be submitted to the APD area office by the support coordinator (see below).

6. Requests for an Exemption or Exception.

If the cost for supported living exceeds the cost of a residence in a group home, the recipient may qualify for an exemption or exception to this cost containment policy. The support coordinator will prepare a request using the Exemption/Exception Request For Supported Living Cost Limits (Appendix II), and submit it to the Area Office for review. The Area Office must review the request to ensure that it uses the proper forms and includes sufficient information necessary to make a determination of the request. The Area Program Administrator will review it and make a final determination; exemptions/exception requests are not required to be submitted to the APD Central Office for review or approval. In the case of individuals who may qualify for residential habilitation with a behavioral focus or Intensive Behavioral Residential Habilitation services, the Area Office behavior analyst will review and make a recommendation.

- a. Exemptions. The following situations are exemptions and are approved on a case by case basis. Once approved, the Appendix II will be returned to the support coordinator who will include it with the submission for PSA review.
 - 1) Recipients who are legally married and live together will be exempt from this policy, or recipients who have their children who live with them will be exempt from this policy.

- 2) The cost variance between the supported living arrangement and the residential group home is less than 10%.
- b. Exceptions. The supported living arrangement is determined by the Area Office to be optimal for the recipient. The determination of whether the supported living arrangement is an optimal residential program option must be based on one of the following:
 - 1) Documentation that previous experience in other residential settings has been unsuccessful (3 different placements over a 2 year period), and, behavior or medical characteristics of the recipient justify a supported living arrangement as a medically necessary service that can be empirically verified as a more efficient and effective residential arrangement;¹ or
 - 2) The individual has a court order, which limits with whom or where the individual lives (an example would be sex offenders).²
 - c. In lieu of all the above, an exception may be requested if the Area Office has documentation that there are no other licensed residential programs presently available or that could be reasonably developed in the Area to adequately meet the needs of the recipient.
 - d. The Area Office will review the comparison and justification for this cost containment exception and, if necessary, request additional information. Once a decision is made, the Area Office will return the completed forms to the Support Coordinator. If approved, the forms will be enclosed with the information provided to the Prior Service Authorization Contractor.
 - e. If the cost of supported living arrangement is greater than the group home cost, and an exception is not justified, the Area Office will return the request to the support coordinator for further consideration and possible re-submission with services addressing medical necessity and conform to the cost containment guidelines. Individuals whose supported living arrangement begins after July 1, 2004, and later experience an increase in the costs required to maintain this living arrangement, will need to follow the above procedures.
 - f. No request for an exception or exemption is necessary if the annual cost of a supported living arrangement, regardless of funding source, is equal to or less than the annual capitated cost plan amount (i.e., \$14, 282) specified for recipients of the FSL Waiver.

¹ Examples: Individuals with behavioral/psychiatric disorders that are traditionally thought of as "treatment resistant" and require long-term intensive supports such as individuals diagnosed with pedophilia or individuals with long standing chronic behaviors.

Medical exceptions might include a recipient diagnosed with uncontrolled diabetes. The condition can be resolved with proper diet, exercise and medication adjustments. Such person would need initial supports in place that may exceed the cost of residential care until the condition is controlled. Gradually the supports would decrease and the cost would be below.

Individuals with Prader-Willi disorder might require daily in-home supports at first, for training in how to eat properly. In-home supports would eventually decrease as the individual learns to monitor their own diet. With appropriate initial intervention they can successfully live in a supported living arrangement.

² Example: Individual's known for documented history of child molestation, etc. and are court ordered to be supervised at all times. Individuals have a history of attacking other more vulnerable individuals in residential settings. Thus the safety of others is best served by having the recipient in a supported living arrangement with one-on-one supervision and no roommates.

- g. All recipients approved for a cost containment exception must have a plan developed and implemented to reduce costs to the level as if they lived in 6-bed group home facility within a 12-month period.
 - h. The 12-month period shall be used to either develop an appropriate group home setting or reduce the cost of the supported living arrangement.
 - i. If after a 12-month period the costs have not been reduced accordingly, the cost comparison process referenced above will have to be re-submitted for redetermination.
7. For supported living arrangements approved and in place prior to July 1, 2004.
- a. Recipients in a supported living arrangement prior to July 1, 2004 whose annual cost exceeds the cost of a 6-bed group home facility shall be exempt and not require additional prior authorization or cost containment reviews.
 - b. Any increase in cost for these individuals which require PSA review will be subject to the medical necessity review by the PSA contractor.
8. Due Process Notification.

Recipients 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 3).

BY DIRECTION OF THE DIRECTOR:

(Signed original copy on file)

Shelly Brantley
Director

Examples of situations in which exceptions may apply

Individual's known for documented history of child molestation, etc. and are court ordered to be supervised at all times. Individuals have a history of attacking other more vulnerable individuals in residential settings. For safety of others is best served in supported living with one-to one supervision and no roommates.

Individuals with behavioral/psychiatric disorders that are traditionally thought of as "treatment resistant" and require long-term intensive supports such as individuals diagnosed with pedophilia or individuals with long standing chronic behaviors.

Medical examples might be for individuals diagnosed with uncontrolled diabetes. The condition can be resolved with proper diet, exercise and medication adjustments. These people would need initial supports in place until the condition is controlled. Gradually the supports would decrease.

Individuals with Prader-Willi disorder might require daily in-home supports at first, for training in how to eat properly. In-home supports would eventually decrease as the individual learns to monitor own diet. With appropriate initial intervention they can successfully live in a supported living arrangement.

APPENDIX II

EXCEPTION/EXEMPTION REQUEST FOR SUPPORTED LIVING COST LIMITS

NAME OF RECIPIENT: _____

DATE OF REQUEST: _____

DISTRICT: _____

Exceptions:

1. The supported living arrangement is determined to be optimal for programming purposes based on a yes answer to one of the following two criteria (a. or b.):
 - a. The individual's placement has been unsuccessful in 3 different homes over a 2 year period and the behavioral or medical characteristics of the recipient justify supported living as a medically necessary service that can be verified as a more efficient and effective residential arrangement. (Provide explanation of behavior and / or medical characteristics which qualify this individual for an exception), or
 - b. The individual has a court order indicating a living arrangement which may not be with others (an example would be sex offenders). (If yes, attach a copy of the order)
2. In lieu of a. or b. above, an exception may be approved if the district certifies that there are no other licensed residential programs presently available or that could be developed in the district to adequately meet the needs of the recipient.
3. The request for an exception includes a plan to reduce costs to the level of an appropriate licensed facility within a 12-month period.

I approve___ disapprove___ this exception request for supported living cost limits.

APD Program Administrator

DATE

(Individuals who meet the criteria for Intensive Behavior Programs are submitted to the Central APD office for final approval)

I approve___ disapprove___ this exception request for supported living cost limits.

APD Central Office

DATE

Exemptions: (Do not send to Central Office)

1. Recipients are legally married and live together. (if yes provide documentation of marriage), or
2. Recipient (s) have minor children who will live with them, or
3. The cost variance is less than 10% of the total annual cost for a residential group home (if yes Appendix I is required).

I approve___ disapprove___ this exemption request for supported living cost limits.

APD Program Administrator

DATE

APPENDIX III

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

On APD letterhead

(Insert date of mailing)

Name of recipient
Address of above
City, State, Zip

Dear (enter name of recipient):

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. Certain exemptions or exceptions are permitted. However, your request have been denied for the following reasons:

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

If you believe that the Agency’s decision was in error, you, your guardian, guardian advocate, or other representative (i.e., family member, etc.) may request a fair hearing (which is an evidentiary hearing), pursuant to 42 C.F.R. §431, subpart E, and chapter 65-2, F.A.C., to contest the Agency’s denial of these services. The request for a fair hearing must be received by the Agency no later than 90 days from the date of this notice. Failure to timely request a fair hearing shall constitute a complete waiver of any right you have to challenge this Agency decision.

A request for Fair Hearing may be made to the Agency for Persons with Disabilities area office or directly to the Department of Children & Families (DCF) Office of Appeal Hearings. This request may be oral or written, although we encourage you to submit it in writing. The following addresses may be used to request a fair hearing:

Agency for Persons with Disabilities Area Office
Address
Phone number
Fax number

Office of Appeal Hearings, DCF
Building 1, Room 309
1317 Winewood Blvd.
Tallahassee, Florida 32399-0700
Telephone number (850) 488-1429
Fax number (850) 487-0662

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). If you elect to meet with the Agency’s representative, this meeting will not affect your right to request a fair hearing or pend the timeframes within which you must request a fair hearing.

Sincerely,

Attachment: "Your Rights to Due Process" brochure

Copies furnished to:

(Insert name of guardian, guardian advocate, or otherwise responsible person)