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STATE OF FLORIDA
DEPARTMENT OF HEALTH
AGENCY FOR PERSONS WITH DISABILITIES
iBUDGET RULES DEVELOPMENT WORKSHOP

Office of the Agency for Persons with Disabilities
4030 Esplanade Way
Room 301
Tallahassee, Florida 32399

May 7, 2015
2:00 - 4:00 p.m.

In Re: Public Workshop, Rule 65G
Florida Administrative Code

MEMBERS PRESENT:

Ms. Denise Arnold, APD Deputy Director of Programs
Cheryl Smith, Agency for Persons with Disabilities
Mr. Art Barr, APD Program Manager

David de la Paz, Esquire, Agency Counsel

ORIGINAL

1 * * * * *

2 (Whereupon, the public meeting was called to
3 order by Ms. Denise Arnold, after which the
4 following occurred:)

5 * * * * *

6 MS. ARNOLD: Good afternoon or, excuse me,
7 good morning. This is Denise Arnold with the
8 Agency for Persons with Disabilities. We are
9 connecting you in. My apologies, we had some
10 phone problems and some miscommunication, so I
11 appreciate you all being on the phone. We are
12 going to just re-engage where we left off. We had
13 pretty much just started on the public hearing and
14 this again is for the iBudget Rules 65G4-0213-
15 0218. We will go ahead and transcribe this one
16 since we've had this interruption, so I'm not
17 going to ask Linda Mabel who's with Florida ARF to
18 repeat her comments, but she will pick up where
19 she left off.

20 Before we do that, can I just see who is on
21 the phone?

22 SPEAKERS: (Over-speaking.)

23 MS. ARNOLD: I heard Patty Hoagland, Betty
24 Kay.

25 MS. HOOPER: Margaret Hooper.

1 MS. ARNOLD: Margaret Hooper.

2 Anybody else?

3 Hillary, are you on? I know Hillary Rizzo
4 (ph) had asked about it. Okay. Thank you.

5 MS. MADDEN: How are you going to handle
6 questions by phone? We missed the beginning of
7 your session.

8 MS. ARNOLD: And who is that?

9 MS. MADDEN: Trisha Madden.

10 MS. ARNOLD: Trisha, okay. Hey, Trisha. We
11 will go ahead and do the people here in the room
12 and then I'll get to the phone people.

13 Who on the phone wants to speak?

14 Trisha, you want to speak?

15 MS. MADDEN: You know I do.

16 MS. ARNOLD: Okay. Margaret?

17 MS. HOOPER: No, I'm just listening today.

18 MS. ARNOLD: Thank you. Betty Kay?

19 MS. KAY: No, I don't expect to.

20 MS. ARNOLD: Thank you. Patty?

21 MS. HOAGLAND: No, I'm fine. Thanks.

22 MS. ARNOLD: Okay. Well, we have three
23 people in the room to speak and then we'll get to
24 you.

25 Trisha?

1 MS. MADDEN: You just start speaking and have
2 you had an exchange of questions and answers back
3 and forth or you're just -

4 MS. ARNOLD: No, we have not. The only
5 question that came up was when is the comment
6 period for this Notice of Change, and we were
7 going to give folks 'til the 14th, a week from
8 today.

9 MS. MADDEN: Okay. Thank you.

10 MS. ARNOLD: And, again, we will transcribe
11 this and put it on the website so people have full
12 advantage of everything. We had just started so,
13 Ms. Mabel was the first speaker. Okay.

14 So, Linda, will you go ahead and pick up
15 where you left off?

16 MS. MABEL: Yes, I just have a few additional
17 comments. The next is providing model cost plans
18 based on the algorithm changes. Obviously, you've
19 done a lot of work with the algorithm and it
20 appears as if the new weighting will bring in
21 funds that were needed where you had disparities
22 with the original algorithm. So we've asked that
23 we receive some sort of model ideally looking at
24 people with different ages, with different service
25 needs so that we can see what the impact of the

1 algorithm actually is. It's hard to look at the
2 percentages and the figures and know really what
3 that does to people.

4 MS. ARNOLD: Yes, and we did have plans to do
5 that. You know, we had the different public
6 meetings about the algorithm itself.

7 MS. MABEL: Right.

8 MS. ARNOLD: And we do plan on doing that and
9 providing that to the public.

10 MS. MABEL: Okay.

11 MS. ARNOLD: We just haven't gotten there
12 yet.

13 MS. MABEL: Do you have a date, do you have a
14 date?

15 MS. ARNOLD: No, no, but we know that, that
16 needs to be done. We're working on it.

17 MS. MABEL: Yeah, I think that would help
18 people understand -

19 MS. ARNOLD: Definitely.

20 MS. MABEL: - what happens with it.

21 In section 0.2153(c) you've added
22 information about the iBudget having flexibility
23 and choice and adjusting funds among the following
24 services and lists the services. We were pleased
25 to see this in the rule. However, on item 3 under

1 this subsection, you limit the flexibility for
2 people in life field development three only to
3 people who are at the 1 to 10 ratio. We feel this
4 is unfair. People are people and if you're going
5 to give choice of use of funds once they've been
6 authorized every one in ADT should have that
7 ability to do funds based on the criteria you set
8 up.

9 MS. ARNOLD: And I think our intent there was
10 that if people were at a 1 to 10 it's not worded
11 right, but I think our intent was if you're at a 1
12 to 10 and you want to have flexibility and move it
13 and then increase to a 1 to 5, we want to be able
14 to make sure you meet the characteristics of the 1
15 to 5, so we did not intend to prevent them from
16 moving their morning. It's a very good point.
17 It's not worded that way.

18 MS. MABEL: Yeah, I can understand, you know,
19 wanting the criteria met and agree with that, but
20 -

21 MS. ARNOLD: Yeah.

22 MS. MABEL: But you may want to look at the
23 wording. We had just recommended that that part
24 of the statement be deleted.

25 MS. ARNOLD: Okay.

1 MS. MABEL: So really we're just looking at
2 the ability and life skill development three to
3 have -

4 MS. ARNOLD: And maybe we'll just say within
5 the, the ratio already authorized or something.

6 MS. MABEL: Right, yeah, or based on
7 criteria, you know, established.

8 MS. ARNOLD: Okay.

9 MS. MABEL: We have heard from members that
10 they would also like to see added to this section
11 some flexibility between supported living coaching
12 and personal supports, particularly when you have
13 a live-in. Often the coach may have to pick up
14 personal care responsibilities if the support is
15 ill or there's something that they can't attend or
16 do for the person, and this current limitation
17 doesn't allow for that so just adding a 12 for
18 supported living coaching would give some
19 flexibility.

20 MS. ARNOLD: Okay.

21 MS. MABEL: In section 202.02153(d) this
22 deals with retroactive approval of authorizations.
23 You have deleted the ability of a retroactive
24 authorization to be approved by the Agency upon
25 written request, and essentially it just states

1 that service authorizations will not be approved
2 retroactively. We have concerns because this
3 really sets some severe limits if you're dealing
4 with an emergency situation or someone who has a
5 real need, it's totally unrealistic to expect that
6 you will have timely authorizations given the
7 system in all cases.

8 So we would like to have you reinstate the
9 ability of the region to authorize that on an
10 emergency basis with written approval from the
11 Agency but say the payment can be received by the
12 provider.

13 In the provider expansion section,
14 paragraphs 5(a) and (b), I think we've answered
15 our own question here. We really had some
16 question whether this applied only to solo
17 providers or to all providers. The concern is
18 that the DD Handbook also addresses expansion and
19 we didn't see the need for duplicating when
20 expansion should occur. You always run into
21 issues if one changes, one rule changes, and the
22 other doesn't, trying to keep it all together.

23 So, number one, we would like to see this
24 not apply to Agency providers who are governed by
25 the handbook in other things and have it in one

1 document.

2 The only other question that we have is that
3 we'd like to understand the process from here.
4 You've had a hearing on the rule. You've done a
5 Notice of Change and incorporated comments.

6 What happens after this and what are the
7 time frames?

8 MS. ARNOLD: Well, we are giving 'til May
9 14th for further comment then we review the
10 comments and determine if there's a need for
11 another Notice of Change.

12 Is that right, David?

13 MR. de la PAZ: Yes.

14 MS. ARNOLD: And time frames I'm not very
15 good on, so maybe you could help - from that point
16 forward.

17 MR. de la PAZ: Well, if you want - it all
18 depends on the time frame for the effective date.
19 Let's assume that the effective date is going to
20 be July 1, for instance, that would put us to
21 having to do another Notice of Change by May 19th.
22 If we do that then we could be in line for the
23 next fiscal year to start the effective date of
24 rule on that.

25 For every day we go beyond that, we would

1 push the effective date back, you know, however
2 many days that is.

3 MS. MABEL: But do you have to do a Notice of
4 Change?

5 MR. de la PAZ: Well, that depends on what we
6 hear. I mean, if there are things -

7 MS. MABEL: Okay.

8 MR. de la PAZ: - that we hear from the
9 comments that, you know, require us - we see the
10 need to - we want to get it right, so if we see
11 something we're missing here, but we need to make
12 the tweet but we can do that by May 19 and still
13 be on a timeline to have an effective date of July
14 1.

15 MS. MABEL: Okay. And if you decide not to
16 do a Notice of Change, how many days prior or will
17 the Rule be effective after this date?

18 MR. de la PAZ: Well, I think we can still -
19 you're - I don't think there's any idea to put it
20 ahead of that so we're going to -

21 MS. MABEL: Okay.

22 MR. de la PAZ: I mean, that's pretty much,
23 you know, a tentative start would be July 1 of
24 this year, so we're not - that's just kind of our
25 window for making changes if we want to stay on

1 that timeline.

2 MS. ARNOLD: Okay.

3 MS. MABEL: Okay. All right. Thanks.

4 MS. ARNOLD: Thank you, Linda. Anything else
5 from Linda? Is that it?

6 MS. MABEL: No, we may have some additional
7 comment, like I mentioned, from our members.

8 MS. ARNOLD: Okay.

9 MS. MABEL: So we'll turn that over to you.
10 And I do have a written copy.

11 MS. ARNOLD: Okay. Great. And the comments,
12 does it say they go to you, David? Usually it
13 does.

14 MR. de la PAZ: Yeah, they do.

15 MS. ARNOLD: Yeah, they go to David de la
16 Paz.

17 Thank you very much, Linda. Okay. And
18 sorry to make you interrupt and, again, my
19 apologies for people on the phone.

20 MS. MABEL: No problem.

21 MS. ARNOLD: Okay. So we've done Linda.
22 Mary Clark also has -

23 MS. CLARK: Actually, I'm a pro bono attorney

24 -

25 MS. ARNOLD: Okay.

1 MS. CLARK: - with the Public Interest Law
2 Center at FSU -

3 MS. ARNOLD: That's right.

4 MS. CLARK: - and I have a law student who
5 will be speaking for us and we submitted written
6 comments to Mr. de la Paz.

7 MR. KARPFF: You thought of one this morning,
8 right, you'd like to say that one?

9 MS. CLARK: Yeah.

10 MR. KARPFF: And I'll do the rest like we did
11 the other day.

12 MS. CLARK: Well, I guess the comment that I
13 thought of after we prepared our written comments
14 to submit to y'all, and certainly we may put this
15 in writing before the 14th.

16 MS. ARNOLD: Okay.

17 MS. CLARK: But we understand that you must
18 budget within the appropriations and when you do
19 that how often do you compute the algorithm
20 amounts for all of your clients to assure that
21 there are funds left for the SAN's and for the
22 folks who are at the top, for example, of the
23 crisis list?

24 MS. ARNOLD: Mm-hmm. There's a lot of things
25 that have to be tracked. Part of that is

1 utilization of services so it's a bit tricky
2 because our budget office has to track how people
3 are utilizing the service because the law says
4 it's expenditures that can't go over, not what
5 we've authorized. So it's an ongoing process that
6 I don't think we've come to that point that you're
7 describing because we've had sufficient funding,
8 so I'm not sure we know exactly what would happen
9 but, yes, we would have to rerun the algorithm and
10 figure out how to move forward from there and we
11 would have to have lots of communication with the
12 public on that because that's so far not something
13 we've had to do.

14 But people don't utilize as much as they're
15 usually authorized for and so far that has been to
16 our benefit and being able to try not to keep re-
17 running algorithms over and over.

18 MS. CLARK: If they don't use it, they lose
19 it; is that -

20 MS. ARNOLD: No, no.

21 MS. CLARK: Okay.

22 MS. ARNOLD: It's just that we have to stay
23 with an appropriation for what we do spend. No,
24 it's not a if-you-don't-use-it-you-lose-it; you'd
25 still get your same medically necessary amount of

1 money. It's just that that's how we have to
2 balance it because we have to look at what
3 actually came in as a claim.

4 MS. CLARK: Okay. Thank you.

5 MS. ARNOLD: Thank you. And your name?

6 MR. KARPf: Justin Karpf, K-A-R-P-F, with the
7 Public Interest Law Center. I have a copy of this
8 if you want it.

9 MS. ARNOLD: Okay. Thank you, Justin.

10 MR. KARPf: So these comments I believe sent
11 to you, Mr. de la Paz, the other day but just to
12 reiterate them I have a hard copy if you'd like
13 that. I've tried to keep them in order of the
14 Rule to make it very easy to follow along, so for
15 65G-4.0213 for number five under there we would
16 like to add language that in addition to the
17 statutory language, it would include attorneys.
18 We think that client advocates, the statute says
19 that the friends and relatives, you know, they
20 advocate for the best interest of the client. We
21 think attorneys serve that same function. I don't
22 see why they wouldn't be included there.

23 Similarly in number 12 of .0213, we think
24 'attorney' should be added among the other people.
25 It already says a designated person holding power

1 of attorney. We think just listing 'attorney'
2 separately would eliminate any confusion.

3 MS. ARNOLD: Well, and these don't - this
4 doesn't prevent, particularly 12, an attorney
5 being identified as one of those.

6 MR. KARPFF: No. Of course. We just -

7 MS. ARNOLD: Okay.

8 MR. KARPFF: - think it would be a one-word
9 sort of thing, just eliminates any sort of
10 confusion.

11 MS. ARNOLD: Okay. All right.

12 MR. KARPFF: This one we would propose would
13 be number 17 after the QSI in Rule 4.214(1)(a); it
14 mentions a QSI assessor. We think that should be
15 defined here. The handbook - we didn't really see
16 anything about that in the handbook, so if you
17 could just add something kind of saying who
18 exactly a QSI assessor is and what their minimum
19 qualifications are.

20 MS. ARNOLD: Okay.

21 MR. KARPFF: We'd appreciate that.

22 And the last one for this rule is for 18(3)
23 that says support coordination, which includes
24 limited support coordination, full support
25 coordination, and enhanced support coordination.

1 The 2010 Handbook only had a definition for
2 limited support coordination, so we were hoping
3 you could give some - shed some light onto what
4 exactly 'full and enhanced' entailed; we didn't
5 see a definition in that 2010 Handbook.

6 MS. ARNOLD: Hmm.

7 MR. KARPF: It was, I think -

8 MS. ARNOLD: Okay.

9 MR. KARPF: - I know it had 'limited', I
10 think that handbook also had one called
11 traditional. I don't have it in front of me but I
12 know -

13 MS. ARNOLD: Okay.

14 MR. KARPF: - I know that 'full and support'
15 were not in there; or if they were, they were in a
16 different section.

17 MS. ARNOLD: Hard to find, okay.

18 MR. KARPF: Right. And then so that's all
19 for 213. For 214, we had two comments. Let me
20 get this right. In (1)(a) we think the QSI
21 assessor, again, the 'should' should be changed to
22 'shall arrange a face to face meeting'. 'Should'
23 just sounds a little too discretionary for such an
24 important stage, and we prefer striking the
25 language that says, "The WSC shall attend the face

1 to face meeting upon request of the individual or
2 representative."

3 We think that sentence should just end at
4 "meeting". I don't think it should be upon
5 request; I think that person should be required to
6 be there unless, I guess, specifically told
7 otherwise by the client for whatever reason, again
8 just because these are such important meetings in
9 determining somebody's allegation. It just seemed
10 a little bit too discretionary maybe.

11 And then under 214(2)(c), we - the end of
12 that sentence says, "...the fair hearing."

13 I'm sorry, not (2)(c), just (1)(c).

14 MS. ARNOLD: (1)(c), okay.

15 MR. KARPFF: Sorry, it's number two on our
16 list.

17 MS. ARNOLD: Yeah.

18 MR. KARPFF: We're proposing language at the
19 very end, "...request a fair hearing within 30
20 days of the Agency's receipt of the request."

21 We like, we like - we think the written
22 notification is a great idea; we just would like
23 some sort of time frame as to when they will
24 receive notice of the Agency's decision. I think
25 30 days for notice is probably feasible at least;

1 it doesn't necessarily mean the hearing will be
2 within those 30 days but at the very least the
3 Petitioner's written notice within 30 days.

4 MS. ARNOLD: So you're saying the Agency
5 should notify people within 30 days; is that what
6 you're -

7 MR. KARPFF: Yeah, ideally, yes.

8 MS. ARNOLD: Okay.

9 MR. KARPFF: I mean, administratively,
10 obviously we don't know exactly how long it will
11 take, but if they -

12 MS. ARNOLD: You want a timeline on there?

13 MR. KARPFF: Just, just, yeah, just some sort
14 of timeline because, you know, our concern - not
15 that we think you're trying to do this, of course,
16 is that, you know, somebody is like, oh, we're
17 waiting for the written request and, you know,
18 then they don't get the written - or, sorry, the
19 written notification, you know, it could take, you
20 know, months or years. So just a set kind of time
21 frame.

22 MS. ARNOLD: Okay.

23 MR. KARPFF: And just one more for a
24 clarification on our part than anything.

25 What exactly happens during this waiting

1 period when they voice their concerns with the QSI
2 assessment? So do they still receive services
3 during that time?

4 MS. ARNOLD: Yes.

5 MR. KARPFF: And those services are based on
6 the -

7 MS. ARNOLD: Whatever their current level is.

8 MR. KARPFF: - the, the contesting - the QSI
9 assessment that they're currently - okay.

10 MS. ARNOLD: Yes.

11 MR. KARPFF: Okay, so they're not precluded
12 during that time period?

13 MS. ARNOLD: No.

14 MR. KARPFF: Okay. Great. Thank you.

15 And then just two quick comments for 215 for
16 (1)(a)(c). It mentions the - unless the handbook
17 is superseded and replaced by a subsequently
18 adopted handbook specifically, we're not entirely
19 sure; it seems a little too preemptive. Like, it
20 seems as if, if a new handbook were to supersede
21 the 2010 one, and I know - I think they're working
22 on one over at AHCA -

23 MS. ARNOLD: Mm-hmm.

24 MR. KARPFF: It seems that if the, if the rule
25 book, if the handbook is superseded there probably

1 need to be new hearings accordingly. I'm not sure
2 you can preemptively super- -- preemptively
3 supersede the current handbook. I'm not sure; we
4 didn't know exactly what the better way is to do
5 that. And the reason - another reason this
6 concerned us was in 65G-4.0217(2) refers
7 explicitly to the 2010 Handbook and not a
8 superseding one.

9 MS. ARNOLD: Mm-hmm.

10 MR. KARPF: It says, "Each individual's
11 proposed iBudget cost plan shall be reviewed and
12 approved by the Agency in conformance with the
13 iBudget rules under Florida Medicaid..." --

14 MS. ARNOLD: Yeah.

15 MR. KARPF: "...Handbook, November 2010." So
16 I would maybe -

17 MS. ARNOLD: Yeah, I think we meant to make
18 those consistent with the supersede language.

19 MR. KARPF: Okay. But, I mean, is it
20 possible to supersede it before it's headed,
21 before it's passed or it seems that a new handbook
22 would necessarily lead to some sort of new rule
23 making.

24 MS. ARNOLD: Well, it's kind of a different
25 rule than this rule. We're just trying to say we

1 adopt AHCA's rule until AHCA goes through the rule
2 making to change that handbook. That's what we're
3 trying to say.

4 MR. de la PAZ: We can't adopt, we can't
5 adopt AHCA's handbook by reference until it's
6 actually -

7 MR. KARPFF: Right.

8 MR. de la PAZ: - adopted, so this -

9 MS. ARNOLD: We're trying to figure out a way
10 to -

11 MR. de la PAZ: This puts everybody on notice
12 that, that's -

13 MR. KARPFF: That it might change, but it
14 doesn't necessarily.

15 MR. de la PAZ: Yes.

16 MS. ARNOLD: Yeah.

17 MR. KARPFF: Okay, okay. Thank you. Thank
18 you for clarifying that.

19 And then for - also under 215(6)(a) then
20 subsection (8), we think that first sentence
21 should be removed that "...the individual becomes
22 enrolled in another home and community based
23 services waiver," because, I mean, waivers are
24 separate and distinct programs that provide
25 different services. You know, we have some

1 clients that are on, you know, brain and spinal
2 cord as well as the home community based. So
3 being on one shouldn't preclude the other.
4 They're different services. I don't think there's
5 any concern of, you know, overlap or other -

6 MS. ARNOLD: Yeah, we'll check with AHCA but
7 I think there is some issue with being on more
8 than one waiver.

9 MR. KARPF: Right.

10 MS. CLARK: I don't think you can.

11 MS. ARNOLD: Yeah.

12 MS. CLARK: Is there - yeah, where would that
13 be because we actually looked for the authority
14 for that?

15 MS. ARNOLD: I don't know. We'll have to
16 look for -

17 MS. CLARK: Okay.

18 MS. ARNOLD: - look and find the authority.

19 MR. KARPF: Okay.

20 MS. ARNOLD: I know in theory I agree with
21 what you're saying, but there is some -

22 MR. KARPF: Right.

23 MS. ARNOLD: - some issue somewhere. That's
24 why that's in there.

25 MR. KARPF: Okay. And those are the only

1 comments we had. Thank you.

2 MS. ARNOLD: Great. Thank you very much.

3 MR. KARPFF: Would you like the hard copy I
4 submitted?

5 MR. de la PAZ: Yes.

6 MS. ARNOLD: Okay. So that was Justin.

7 And then we have Curtis?

8 MR. FILAROSKI: Curtis Filaroski from
9 Disability Rights Florida and we appreciate the
10 opportunity to comment and we will be submitting
11 written comments before the May 14th deadline.

12 MS. ARNOLD: Okay.

13 MR. FILAROSKI: Probably a little bit more
14 than what I'll be presenting today.

15 Before I go on to the specific sections of
16 the Rule, I just had two general Rule concerns I
17 just wanted to bring up. First is the lack of any
18 mention of the phrase 'person-centered planning'
19 in the iBudget rules. And I believe in our
20 written comments we'll have maybe some suggestions
21 of where to include this phrase and include these
22 ideas.

23 MS. ARNOLD: Okay.

24 MR. FILAROSKI: But we have a problem with,
25 you know, just an issue with the fact that person-

1 centered planning isn't included in the iBudget
2 rules as written, and also we have some concerns
3 with the fact that not all of the JAPC - the
4 concerns that JAPC had in their January 16th
5 letter haven't been addressed in - especially
6 we're concerned with their problem or their
7 concern with Rule 65G-4.0216(3) where JAPC noted
8 that the use of the word "may" appears to give the
9 Agency unbridled discretion to determine whether
10 or not approve a request for additional funding.
11 We think that should be most certainly addressed
12 as well as the other concerns that have not been
13 addressed in the Rule, but that one for us is a
14 particular concern.

15 MS. ARNOLD: That was .0216?

16 MR. FILAROSKI: .0216(3) and let me get the
17 specific language.

18 It states, it's at the bottom, "The Agency
19 may approve an increase to the iBudget amount..."

20 MS. ARNOLD: Okay, yes.

21 MR. FILAROSKI: Yeah, and again, that's of
22 particular concern to us and we would like to see
23 that addressed. I just want to reiterate - well,
24 okay, to go into the specific sections -

25 MS. ARNOLD: Okay.

1 MR. FILAROSKI: So .0213(5)(12), I just want
2 to reiterate we also - that these definitions for
3 client advocate and individual representatives
4 should include an individual's attorney, again,
5 just so it's specifically - we understand that
6 maybe the definition allows for that but we just
7 would like that specifically stated in there, as
8 well.

9 .0213(20)(h) where it states as one of the
10 examples that may require long term support under
11 significant additional needs, it states: "...lack
12 of meaningful day activity needed to foster mental
13 health or prevent regression."

14 We believe that something like - some
15 language such as, "...or engage in meaningful
16 community life and activities."

17 We don't think that meaningful day activity,
18 "...the lack of meaningful day activity needed to
19 foster mental health or prevent regression"; we
20 just think in addition to that should be something
21 like, "...or to engage in meaningful community
22 life or activities..." or -

23 MS. ARNOLD: Okay.

24 MR. FILAROSKI: - something like that.

25 MS. ARNOLD: Okay.

1 MR. FILAROSKI: Moving on to .0214, the
2 algorithm. We just had just a general comment on
3 that. We believe that a paragraph explaining
4 perhaps the mathematics underlying the iBudget
5 algorithm as well as the specifically indicated
6 figures in paragraph two are derived should be
7 included.

8 We also believe that with respect to this
9 section that the section should clearly indicate
10 how the algorithm relates to an individual's
11 iBudget amount. I believe the first time that it
12 says this is .0216 is where it first states that
13 the relationship between the algorithm and the
14 iBudget amount and we believe that that should be
15 contained in this section pertaining to the
16 algorithm.

17 And also just a more, just that there's
18 still two subsection 2's in this section, one of
19 them, I believe the last one should be changed to
20 (3).

21 MS. ARNOLD: Okay, good. Thank you.

22 MR. FILAROSKI: That's again just a small
23 change.

24 MS. MADDEN: Uh huh.

25 MR. FILAROSKI: Okay. I lied; I actually do

1 have more comments on .0214. So specifically
2 (1)(c) states that if an individual receives QSI
3 results that they believe are in error and they
4 request a reevaluation of those results, quote,
5 "The Agency shall notify the individual and the
6 waiver support coordinator in writing any denial
7 or request for reevaluation."

8 But neither this quoted language nor any
9 other language in the subsection outlines their
10 criteria for denying a request for reevaluation.
11 The language does suggest that such a denial may
12 be based upon the challenged area not being a
13 variable in determining the individual's
14 algorithm, but we believe that this language
15 should be clearly stated and not merely suggest a
16 criteria.

17 Moreover, if an individual requests a
18 reevaluation of their QSI results and is denied,
19 we believe that individual should receive a fair
20 hearing to challenge this denial and the rules
21 should reflect that.

22 Next is .0214(1)(d), states that when an
23 individual or a waiver support coordinator
24 requests a reevaluation, whether it's a
25 significant change in circumstance or condition,

1 quote, "...the Agency shall arrange for
2 reassessment within 60 days of the request."

3 First, the language does not give any
4 guidance on what happens if the Agency fails to
5 meet those guidelines, and moreover we think that
6 60 days is an unduly long time for an individual
7 experiencing a significant change in circumstance
8 or condition, especially if the circumstance or
9 condition is due to emergency. We believe that 60
10 days is perhaps an acceptable outer bounds, like,
11 you know, an outer bounds deadline but that the
12 language should be edited so it states something
13 like, you know, the Agency shall arrange for a
14 reassessment as early as possible within no more
15 than 60 days.

16 And finally, we believe that the 60 - that
17 it should just be clarified in the Rule that the
18 60 days means calendar days as opposed to business
19 days 'cause that would be a change in about 20
20 days or so, I think. I think that's what the math
21 comes out to.

22 Okay. Moving on to .0215(3), we had a
23 problem with the last - (3) and specifically
24 (3)(a) and (c), we had a problem with the lack of
25 flexibility that seems to be demonstrated here

1 with respect to certain services and service
2 families and things of that nature. We are unsure
3 of why, for example, in (c)(10) and (11), there is
4 a monetary cap of \$16,000 and \$5,000,
5 respectively, and we think just generally that
6 these iBudget rules should reflect a greater
7 amount of flexibility for individuals who move
8 between services and service families and things
9 of that nature.

10 Let me see. Okay. Next is .0215(3)(d)
11 which states that, "An exception to the refusal to
12 approve service authorizations retroactively may
13 be made in limited circumstances on a case by case
14 basis by the Agency regional office to correct an
15 administrative error or to consider a health and
16 safety risk in emergency situations."

17 We think this language is problematic for
18 two reasons. First, it does not outline standards
19 or criteria by which regional offices are to make
20 decisions regarding these exceptions; and second,
21 because it doesn't outline this criteria, it
22 allows the regional offices to sort of develop
23 independent criteria which means, you know,
24 individuals in similar situations but located in
25 different areas may have received different

1 treatment; and we think maybe there should be some
2 criteria outlined to prevent this problem.

3 .0215(5)(b) states that, "When an Agency
4 regional office conducts a determination required
5 under this paragraph determining whether or not a
6 provider may expand from solo to Agency enrollment
7 status, it shall take no more than 30 days."

8 And again, we would just like some language
9 giving guidance on what happens when the Agency
10 fails to meet that 30 day deadline.

11 Under .0215(6)(b) it states that, "If an
12 individual family member or individual
13 representative refuses to cooperate with the
14 provision of waiver services, the Agency will
15 review the circumstances on a case by case basis
16 to determine if the individual can be removed from
17 the waiver."

18 Again, this language is problematic 'cause
19 it doesn't outline any criteria for this case by
20 case determination and allows for perhaps ad hoc
21 determinations. And we believe that the language
22 should be changed so that, you know, an
23 individual's waiver status isn't subject to these
24 case by case determinations without criteria.

25 And finally, our final comment is on

1 .0216(3), the significant additional needs review,
2 which is particularly problematic for us. We
3 believe that if the Agency denies a request for
4 significant additional needs funding the
5 individual making the request should be given an
6 opportunity for a fair hearing to challenge the
7 denial, and if a waiver support coordinator
8 doesn't submit a request for significant
9 additional needs funding and the individual
10 disagrees with this - the lack of a request made
11 by the waiver support coordinator, we don't
12 believe it's enough to just say as the rule does
13 that the individual may submit in writing to the
14 Agency the reasons for their disagreements because
15 an individual has a right to ask for an increase
16 in services through this process and get a timely
17 - excuse me - and get a timely response from the
18 Agency; and we believe that this process needs -
19 should comply with due process fair hearing,
20 things of that nature.

21 And the way that this process is kind of
22 laid out in the Rule, it kind of makes the waiver
23 support coordinator act as a first reviewer on
24 whether or not to decide on this - whether or not
25 this request goes to the Agency. And, again, we

1 don't think that the waiver support coordinator
2 should act as if this first level reviewer and we
3 don't think this should be - the waiver support
4 coordinator should be in a position, an
5 adversarial position with an individual, and we
6 just think that this whole process should be
7 changed so there's more, more due process
8 opportunity to challenge a denial, more than
9 merely just, you know, a letter saying that they
10 disagree with the waiver support coordinator's
11 decision, and that's it. Thank you.

12 MS. ARNOLD: Okay. Thank you, Curtis.

13 MR. de la PAZ: Are you going to have any
14 suggestions on the language there that talks about
15 the Agency may approve, which you mentioned about
16 JAPC?

17 MR. FILAROSKI: Yeah, yeah. I'll write that
18 down, yes.

19 MS. ARNOLD: Okay. I think that's it for the
20 people in the room, so we'll go to the phone.

21 Trisha Madden.

22 MS. MADDEN: Yes, I appreciate the
23 opportunity to discuss this. I've been tied up
24 with my husband in surgery, so I got this just
25 recently. So I will save in the first place much

1 of what's been said for areas that I was covered,
2 I will add just sitting here as a representative
3 of possibly and the future caregiver if things go
4 on - also, as an attorney that you do need to add
5 the word "attorney". You had it there before and
6 in one of the main changes took it out. I don't
7 want any question because I raised the question
8 once before with the Department, what happens if
9 I'm no longer the representative, for example, but
10 I am my son's legal counsel and I have an active
11 legal license? And no one could answer that
12 question. The answer should be, of course, that I
13 can speak and find out things about him, I can ask
14 questions, but your staff is very unclear on that.
15 So I think it's because perhaps the definition of
16 the question is they were going to ask. But I
17 think you need to specifically add "attorney"
18 because we do have certain rules that are
19 certainly critical to the client, even if they
20 have other representatives.

21 The other thing is just a couple of things I
22 want to mention and the biggest question is the
23 one that you and I discussed before, but I still
24 see no, no solution to it in the forms. I will
25 come back and comment, but I'm going specifically

1 to the numbers that I did not have time to
2 prepare. However, in particular I noticed in .201
3 - let's see, let me go back here. You do have,
4 you do have a typo in one of two places, but I'll
5 do that by letter.

6 In the question of (Inaudible), I did agree
7 with the gentleman who just spoke. I was just
8 curious why you picked that figure in the first
9 place.

10 Why were you limiting it to a number?

11 If the purpose of flexibility is to allow
12 you to substitute services that are better suited
13 not only for the client but maybe available to the
14 community, why were you even considering a
15 limitation? Just in case that pops up again.

16 MS. ARNOLD: One of the reasons for that is
17 because we do by statute have to stay within
18 appropriations, so we were trying to find a way to
19 for those things that appeared that someone would
20 be dramatically increasing those types of services
21 that we had a chance to look at what's going on,
22 so that we're sure what's going on with their
23 health and safety. That's why we did -

24 MS. MADDEN: Well, one of the things I
25 question about that is, for example, Kevin, my son

1 is 1 to 3 in an ADT. It happens that ADT is now
2 having problems. Kevin also has comorbid health
3 problems, so at times it may appear that though
4 much as I would like him to stay in ADT as much as
5 he can that the need for personal care support
6 grows and so my usual technique as a CDC Plus user
7 is to shift the ADT funds if they can't be used
8 because it's not able physically, mentally, or
9 whatever the reason to get ADT is to switch them
10 to PCA.

11 MS. ARNOLD: Mm-hmm.

12 MS. MADDEN: So you're putting a price limit
13 there, as the gentleman mentioned it, so hopefully
14 you will eliminate that because I think that you
15 can look at that and decide in the sense of when
16 you get reports back the way the money's being
17 expended, but to put that limitation in for the
18 individuality of the person that you're dealing
19 with - for example, Kevin's comorbid and you're
20 putting a limitation on, on - and I'm not sure if
21 CDC Plus - if it seemed contrary to CDC Plus in
22 itself.

23 And that's another question I had: Does that
24 section apply specifically to CDC Plus and also in
25 the question of that, connected to that, when you

1 go to the question of applying to a provider, some
2 of that language, there's no proviso there and you
3 did take out - and I don't have it in front of me
4 'cause I just got this yesterday - that section
5 you put no change on CDC Plus. I may be asking
6 that question that was explained by that - that
7 (Unintelligible) sitting there, but one of the
8 advantages of the CDC Plus was that we did not
9 have to have Medicaid qualified individuals.

10 Now, Medicaid application if that includes
11 the type of forms that we use for CDC Plus, but I
12 could not determine from this if they did, if it
13 doesn't I know how it came forth and what you have
14 to do to become a Medicaid provider, and that
15 would seem to defeat the whole purpose of CDC
16 Plus.

17 Perhaps paragraph four which is not sitting
18 there because you made no changes would explain
19 that if I had time to read it better, but if not,
20 I have concerns about that.

21 MS. ARNOLD: Okay, okay. Good point. Yeah,
22 we'll check that.

23 MS. MADDEN: The other thing I have a concern
24 about is - maybe the main one, and I'll get to
25 that 'cause I'm going first 'cause the time is

1 limited, I'm sure, but the one that we have
2 continually talked about but has not reached any
3 conclusion is when you get down to the sections on
4 special - extraordinary needs or the other
5 additional needs.

6 You have in your section where you talk
7 about the implication of those things, for someone
8 who's new to the waiver, not new to iBudget - new
9 to the waiver, that they will go through the
10 process of getting the budget amount and then they
11 will sit with their waiver support coordinator,
12 have a discussion as to whether or not there's
13 help for the (Inaudible) or the sum will provide
14 for the health and safety of the individual, and
15 I'm not reading exactly from the document right
16 now.

17 However, again, we have no provision of how
18 those of us who are in a waiver but have actually
19 never been on iBudget, there is still no provision
20 for a decision for someone who may very well
21 qualify or require special additional funds or
22 needs or have an extraordinary need, whichever
23 term you happen to be fitting in to that
24 particular situation.

25 My suggestion is that you do need a section

1 in the rules because the rules are giving you a
2 process, not just the algorithm. The algorithm is
3 one thing and is a component of the rules. How
4 you work that iBudget back into what is really
5 technically and legally right now, no one's on
6 iBudget; we're all back on the tier even though
7 the monies you're paying to some people may be
8 equivalent, no one's on iBudget right now.

9 So when you do the first run on iBudget you
10 do need, I do believe strongly still and I've
11 gotten several e-mails on that just as I was
12 sitting here this morning, that we do need to have
13 a provision that when you do the first run you're
14 giving us more information. You're going to have
15 to give us more information on the notices.

16 However, that's not still very effective or
17 anything. It's not all that helpful unless
18 there's a recourse before the actual iBudget goes
19 into effect that you can discuss that. Now, if
20 you take someone who has an iBudget amount or a
21 budget amount, let's say a cost plan amount now,
22 and you run the iBudget without considering you're
23 doing that basing it off QSI statements and the
24 algorithm only, the QSI does not cover some of the
25 extraordinary need situations and if you run that

1 budget you stand the chance of either having
2 multiple hearing requests again, which I think is
3 something we'd all like to avoid if possible, it's
4 a waste of time and money and stress, but you need
5 some way to accommodate those people who don't fit
6 iBudget.

7 I remember at the last meeting we had Dr.
8 Niu himself said that when I described one of the
9 situations related to our son, it kind of does not
10 fit the QSI. So he's only one but I'm sure there
11 are others who will be in the same situation. So
12 you have a procedure here where you run the
13 iBudget for new people, new people to the waiver.
14 I think you need to include in this rule even a
15 transition statement about how you start the first
16 run through. It would be one that you could then
17 remove or it can be conditional, a one-time event
18 of the initial running of iBudget so people who
19 are already on the waiver -

20 MS. ARNOLD: Are you speaking about when we
21 run a new algorithm? Is that what you're speaking
22 about?

23 MS. MADDEN: No, not - I'm sorry. You need
24 to, I think, have a procedure in there that the
25 first time, and this will be legally the first

1 time you run iBudget, the next time you run it
2 because the previous run was disqualified, and the
3 fact that you had to reimburse and put everybody
4 back on the tier system. So legally you're going
5 to be doing the first run of the iBudget maybe
6 perhaps by the July 1st deadline, maybe not. But
7 when you run that you don't have anything in here
8 indicating how you allow the entering of
9 information for those individuals who have
10 extraordinary needs that are official additional
11 funding needs.

12 You have it if someone is new to a waiver.
13 Almost no one that is involved in this process,
14 the vast number, are not new to the waiver. They
15 will be new to iBudget.

16 MS. ARNOLD: Okay. Yeah, I got it.

17 MS. MADDEN: I don't - yeah, so either you
18 need to see people need to - new to iBudget need
19 to go through this process and that may be one -
20 maybe the term "waiver" should be deleted and the
21 term "iBudget" should be put and placed in there.
22 I know your intent was that in the future you'll
23 be looking at people even new to the system
24 completely; you will be looking all the time at
25 people coming off the wait list. But this initial

1 run is none of those things. It's everybody.

2 MR. de la PAZ: Ms. Madden, can I ask you one
3 thing?

4 MS. MADDEN: Yes.

5 MR. de la PAZ: We started, we actually
6 started the implementation of iBudget and it was
7 invalidated, so why are you saying now that
8 everybody is on the - this is the first time we're
9 going to run the iBudget and everybody's on the
10 tier system right now?

11 MS. MADDEN: Because you were, you were
12 placed back in the position that iBudget as it was
13 run was invalidated by the court, not the iBudget
14 - all right. You're not funding people on iBudget
15 right now. You have cost plans going out there,
16 but your funding mechanism is not the algorithm
17 right now for everybody. You have a lot of people
18 out there still running off of tier funds, off the
19 tier calculations.

20 Okay. You, you ran iBudget, you ran into a
21 wall of legal masses, mass cases about the fact of
22 the various elements of iBudget which were not,
23 and the new process, which were not valid. One
24 was the notice process, so that notice process
25 which you did before has been invalidated by the

1 courts and you've had to re-instore (sic) all
2 budgets theoretically to the amount people were
3 getting before you started all this. That means
4 that there is no one out there right now who is
5 legally or technically receiving the amount of
6 funding that they would have gotten or are getting
7 just because of the iBudget algorithm and this new
8 rule. So maybe those are actually on that same
9 amount, it may have turned out that amount either
10 was old, the same old amount they got; it may be
11 that that amount worked for them and they have an
12 issue, they didn't actually request for hearing.
13 You are missing some discussion about how many
14 people will be requesting hearings when the
15 iBudget is applied again to them. There's nothing
16 discussing this rule unless you're somehow - I
17 mean, all the hearings were - the court voided all
18 the hearings because they are no longer applicable
19 because the whole system had been told to go back
20 to restart.

21 MR. de la PAZ: So your -

22 MS. MADDEN: So even though you may think of
23 it is iBudget funding, technically, legally it's
24 not.

25 MR. de la PAZ: All right. Thank you.

1 MS. MADDEN: So you need that - I mean, all
2 right, I can use my son, and I have - my son lives
3 at home, in the family home. He is, of course, by
4 the time we're all finished he may have a lot more
5 needs because he will now be 65 years old, but
6 hopefully not that long, but we're headed that
7 way, but when he comes back into this system, when
8 you run iBudget for him, let's say you run it for
9 the July 1st effective date. He has never had a
10 revision conference, he has never had - been on
11 any budget except the budget he had from before
12 iBudget was ever thought of, so there never has
13 been a time to discuss either his needs when it
14 was first run or his needs as he exists today,
15 which is now several years later, and he has
16 regressed.

17 You've never had an opportunity to - I have
18 never had, he has never had, his support
19 coordinator has never had an opportunity to
20 prepare any kind of evaluation of what
21 extraordinary needs or special needs he has.

22 If you were to put him on the budget you put
23 him on before, I would immediately have to request
24 a hearing because that budget would kill him. So
25 there are others out there much in the same

1 category. Hopefully, we're a limited number
2 because it implies that we have significant need
3 as clients, us consumers, children, whatever you
4 want to call them. So there is no process here
5 except for those people new to the waiver to allow
6 for that consideration of extraordinary needs
7 until after the budget's already run and then the
8 only answer then you're going to get is a request
9 for hearing. Is that really a profitable
10 effective way to handle this?

11 I don't think so. I mean, I'm an attorney
12 but I'm not really in the business of chasing
13 business up for attorneys, but that's in effect
14 what you'll be doing. Or you'll catch families
15 who do not have access to an attorney either
16 because of lack of funding or finding an attorney
17 to qualify in this field in their area and they
18 may end up accepting funds, which then they get
19 into trouble with and then they need to do
20 something to come up with extraordinary needs, the
21 fact that you have just damaged the health and
22 safety of their client. I don't think you want to
23 do that, I don't think the Department wants to do
24 that, and I don't think Governor Scott wants to do
25 that. But there's nothing in this Rule for a

1 transition period.

2 MS. ARNOLD: Okay. We're -

3 MS. MADDEN: You're going to have a -

4 MS. ARNOLD: We'll look at that.

5 MS. MADDEN: -- transition period because you
6 have had had to recall all the notices that you
7 did before. Those notices did include an
8 opportunity for a mediation session.

9 MS. ARNOLD: Okay. We'll look -

10 MS. MADDEN: So either you're -

11 MS. ARNOLD: - we'll look at that, Trisha -

12 MS. MADDEN: - saying that was unnecessary,
13 is useless and you don't need it, or you need to
14 put something in this rule that says for the first
15 or for the one with the - however you want to
16 classify it legally, carefully, and I haven't had
17 time to think that out since I got this copy
18 'cause we talked about it at the last hearing,
19 that some - that there needed to be some mechanism
20 to give consideration to extraordinary needs and
21 special needs that people have now -

22 MS. ARNOLD: Right. We'll look at that,
23 Trisha.

24 MS. MADDEN: - that we're going to have new -
25 You have a categorization of two people - people

1 who have those special needs now that they've not
2 yet been ever formally considered into the iBudget
3 Rule. I guess they're all waiting for hearings.
4 Or there was confusion and some people didn't
5 think to ask for hearings, but you're going to
6 have a different approach because people are more
7 aware now.

8 MS. ARNOLD: Okay. We'll look at that.

9 Did you have other comments on the Rule?

10 MS. MADDEN: Yes. The - it was interesting
11 in - I think this is a comment and I said I would
12 send in written comments more specifically when I
13 have time to do that when I equate them with the
14 Rule numbers. But one of the discussions I just
15 heard earlier, I would have to conclude - concur
16 with. I think in much of the writing that you've
17 done in these sections, and I don't have them
18 spelled out in a completely clean way to tell them
19 to you right now on the phone, but a number of
20 them rely far too heavily in my opinion on the
21 waiver support coordinator's opinion.

22 We had a CDC Plus group support meeting
23 yesterday in the area 87, we call 13, and we had
24 there a reviewer who wanted to learn about CDC
25 Plus. The questions exchanged there were, and I'm

1 not giving you his name because it wouldn't be
2 fair to him, that his comment was that when he
3 reviews a client to put on the CDC Plus he finds
4 the ones that are in pretty good shape or the ones
5 that have good support coordinators. The ones
6 that don't have bad support coordinators and he
7 said he finds it about a 50% divider on who has
8 good support coordinators and bad.

9 Now, we hear all the time that you all have
10 trouble getting good support coordinators. I've
11 had very few. I've had a lot of them but very few
12 and I can do my work myself, but that's not every
13 family. So to make a support coordinator so far
14 up in the evaluation of the client I will tell you
15 I think it is unreasonable and also going to cause
16 difficulties for the health and safety because
17 there are a lot of support coordinators out there
18 and much to our own display - dismay that do not
19 know their clients very well, and do not make the
20 required calls and do not make the required
21 contact; and no one seems to check that, that is,
22 the regional offices. And that I've heard from
23 several regions.

24 So I will put it in written comments
25 specifically sort, it's already been referenced a

1 couple of times today that you have the support
2 coordinator play such a high role in evaluating a
3 client.

4 I can tell you, I have a fairly decent
5 support coordinator right now; she does not know
6 my son very well, and you can't know a child or a
7 client or an adult that well in a brief visit once
8 every month, two months, six months, depending on
9 where you stand in the system. So that was just a
10 general comment about putting too much value on
11 the support coordinator's participation and that's
12 it for now.

13 MS. ARNOLD: Thank you so much, Trisha.

14 Are there other people on the phone that
15 have comments?

16 MS. FRENCH: Yes.

17 MS. ARNOLD: Go ahead.

18 MS. FRENCH: Yes, hi, this is Gail French.
19 How are you, Ms. Arnold?

20 MS. ARNOLD: I'm good, how are you?

21 MS. FRENCH: I'm okay. I just have a couple
22 of comments in reference to a couple of these
23 rules.

24 In Rule 65G-4.0214 and I jumped over one
25 that I was going to speak about, but I'll get to

1 that one in a minute, about the QSI and the fair
2 hearing, and I think that's a very good addition
3 and I appreciate the Agency's, you know, response
4 in some of the people that had wanted that in
5 there. So I appreciate that you guys are putting
6 that in there, but I thought that where it says,
7 "The Agency shall notify the individual and waiver
8 support coordinator..." -

9 Are you there?

10 MS. ARNOLD: Yes.

11 MS. FRENCH: I'm hearing a bell in the
12 background.

13 MS. ARNOLD: Yeah, it's not on our side.
14 We're not in a church.

15 MS. FRENCH: Oh, it's my phone going off.
16 Anyway, back to what I was trying to say.

17 In reference to the allocation algorithm and
18 regarding the QSI results and the right to request
19 a fair hearing, I thought that what you should put
20 is - add these words and I will send comments to
21 this effect, but "The Agency shall notify the
22 individual and waiver support coordinator in
23 writing of any denial or request for reevaluation,
24 reassessment, etc., resulting in no change to the
25 challenged score and give the individual their

1 right to an opportunity to request a fair
2 hearing."

3 And I know that you would be giving them
4 notice but I just thought it should be put in
5 there as the language, the right to due process
6 and the opportunity to request a hearing. I think
7 that would just be an important addition to put in
8 there, and the 30-day requirement - usually that's
9 what it is anyhow for an inadequate notice case
10 and due process case, but that would be fine and
11 that would be also a good addition, the gentleman
12 who spoke earlier about the 30 days for that right
13 to request a fair hearing. That was that for
14 that.

15 Let me go back to my other area. Okay.

16 65G-4.0213 under Definitions, number 12,
17 Individual Representatives. I noted that you have
18 or whomever, your legal department has deleted the
19 word "individual's advocate" to "individual's
20 representative"; I do know that one good thing is
21 that you did include - I think this is the first
22 time you put "client advocate" there which is a
23 good addition on number five, but that I believe
24 that you need to reinsert either "client advocate"
25 or "individual's advocate" there in that

1 definition, even though it's mentioned beforehand
2 as the "individual representative", I think you
3 need to insert one of those two terms, "individual
4 advocate" or "client advocate" in there just to
5 add that back in there because I don't see any
6 reason why it would have been deleted in the first
7 place.

8 Let me see. I've got like two more areas.

9 And can you hear me okay, Ms. Arnold?

10 MS. ARNOLD: Yes, sure can. Thank you.

11 MS. FRENCH: Okay, just wanted to make sure.

12 Okay. Thank you.

13 This is just a small addition for 65G-4.0215
14 where A, APD added "natural supports" and I'm very
15 thankful to see that that's in there but I thought
16 that in that section directly after "natural
17 supports", even though you had put it in the
18 definition as far as the natural supports being
19 provided voluntarily, which I commend the Agency
20 for putting that in there, that you need to put it
21 also right there. You might not need to but this
22 is just my opinion that after that word "natural
23 supports", you should put "provided voluntarily"
24 and add that in there.

25 And then I think that there is maybe one or

1 two more areas. 65G-4.0217, iBudget Cost Plan.
2 It's number 5.

3 "If an individual's budget includes
4 significant additional needs beyond what was
5 determined and the Agency determines that the
6 service intensity, duration, etc., is no longer
7 medically necessary, the Agency will adjust..."
8 pay attention to that word, please, "adjust" -
9 "...needs to be matched to the current need."

10 I think that the word "adjust" even though
11 there were no corrections on this, in the newer
12 proposed Rule, that the word "adjust" needs to be
13 deleted and that the word "reduce" should replace
14 the word "adjust", and, you know, with the
15 understanding, too, that those persons will also
16 be given their right to due process. I just feel
17 that the word "adjust" is not an appropriate word.
18 Even though that's what the Agency will be doing
19 in the background, "reduce" is a better word and,
20 you know, the treating physician comes into play
21 there, the medical necessity comes into play there
22 because once the services are covered the issue is
23 whether the covered service is medically
24 necessary, 42CFR230D. So I just feel, and I will
25 be following up with comments to Mr. de la Paz,

1 David de la Paz, or however you pronounce his
2 name, excuse me.

3 The last - okay, the last section that I
4 have a problem with and maybe I'm just the only
5 person that sees this, but it's 65-G.4.0218,
6 Significant Additional Needs, where it states in
7 number 8:

8 "No additional funding for an individual's
9 services shall be provided if the additional
10 funding is not premised upon a need that arises
11 after the implementation of the initial iBudget
12 amount."

13 I don't know how that should be worded, but
14 this language appears to me to be not taking into
15 consideration the numerous individuals' unmet
16 existing and/or preexisting needs that they may
17 have had lifelong where they have never even
18 requested services for those, or perhaps did
19 request services at one time and were denied. And
20 so, to me, this is a limitation there on who can
21 ask for medically necessary services as it being
22 only a need that arises after the implementation
23 of the initial iBudget amount.

24 So I think that that needs to be changed and
25 I haven't decided exactly what should be put in

1 there, but I will also follow up with some
2 comments in relation to that.

3 MS. ARNOLD: Great.

4 MS. FRENCH: That was basically all that I
5 had, I think. Let me just make sure. Yeah, that,
6 that's about it for, for what I have right now,
7 and if I come up with anything else I'll send them
8 in comments.

9 MS. ARNOLD: Thank you, Gail. And, yeah, if
10 you think of a better way to say, and of course,
11 this is for anybody, we always appreciate y'all
12 giving us the specific language you think would
13 fix what you're recommending.

14 MS. FRENCH: Okay.

15 MS. ARNOLD: That's always -

16 MS. FRENCH: I'll try to figure something out
17 and I appreciate that.

18 MS. ARNOLD: Yeah. And I know -

19 MS. FRENCH: Thank you.

20 MS. ARNOLD: - you can't always do that, but
21 if you know what you think would fix it that would
22 really help us a lot.

23 MS. FRENCH: Okay.

24 MS. ARNOLD: Anybody -

25 MS. FRENCH: I'll -

1 MS. ARNOLD: - on the phone? Thank you, Ms.
2 French.

3 MS. FRENCH: You're welcome.

4 MS. ARNOLD: Anybody -

5 MS. MADDEN: I have one question, Trisha
6 Madden, I meant to ask a question.

7 MS. ARNOLD: Yeah, Trisha.

8 MS. MADDEN: In the - I was trying to - it's
9 actually - I'm not sure if I read it correctly. In
10 - where is it? In the definition section, in
11 .0214(2)(g), I may have trouble reading that.

12 Is that saying that the - if you live in a
13 family home the combined sum of questions
14 (Unintelligible) are multiplied by - is that 0.63,
15 et cetera?

16 MR. de la PAZ: Yes.

17 MS. MADDEN: What is the number that's
18 supposed to be there? It's hard to read.

19 MS. ARNOLD: 0.63489.

20 MS. MADDEN: Okay, then that one and then
21 coupled also with that same section except down at
22 level - what - well, (k) is - references question
23 18 and my comment is about question 19 of the QSI.
24 In the previous meeting we had a discussion with
25 Dr. Niu there that said that he agreed that

1 question 19 should be added in. I didn't know if

2 -

3 My question is did y'all blend it with 19
4 included as a special separate weighted item, that
5 is, toileting? And I think that his comment was
6 endorsing the one I had made that the fact that
7 toileting if you're living in the family home can
8 be an extremely long term -

9 MS. ARNOLD: Right.

10 MS. MADDEN: Even an hour or two.

11 MS. ARNOLD: Yeah, and back to the one you
12 just identified, (g), that's where it comes in
13 because there's an additional weighting for
14 functional factors if you live in the family home.
15 So it does take -

16 MS. MADDEN: Then my next question was going
17 to be and initially is that seems like a very low
18 weight. I think again that you all are
19 underestimating the amount of time and effort that
20 it takes to provide services in the family home
21 and yet we're providing a service to you all by
22 costing you less than if you put him some
23 facility, and I don't think you yet have a
24 realistic view of what the - particularly the more
25 severe, even the severe behavior people, but the

1 more physically impaired that should be using 24
2 hours/7 days to take care of them.

3 MS. ARNOLD: Yeah, and you know, when they -

4 MS. MADDEN: (Unintelligible) - the family
5 room home is given the same appearance it's always
6 had, that you are demeaning the value of the
7 services provided by those keeping individuals in
8 their family home. Now, perhaps again it may be
9 relevant to the functioning level of - and yet the
10 QSI only to a certain extent looks at functioning
11 level as far as using somebody that's able to do
12 your own care. That doesn't come out clearly
13 reflecting of the QSI. If you're someone who has
14 absolutely no ability to do that, then your rate
15 value - the weight value for the family home is
16 extremely low and would encourage, I think, more
17 families - or is encouraging more families to look
18 at these -- they're receiving and looking more at
19 outside placement, and I think that's a risk that
20 you really don't - as a State we don't need to
21 take because there's not a lot of outside
22 placements and if you go through with the new
23 community service rules on transitioning out of
24 more out of group homes even, the situation gets
25 worse not better, and the advantage of having them

1 stay in family homes is going to be greatly
2 reduced if people cannot handle things longer.
3 That's just my - and that's 19.

4 MS. ARNOLD: Yeah, I definitely agree that
5 we're trying to support people to stay in the
6 family home and that's part of what that
7 individual review and extraordinary need process
8 will, will capture. But this algorithm does give
9 some additional weight to situations in the family
10 home. It still may not be quite exactly where it
11 needs to be, but as you remember we talked about
12 it. It's based on historical expenditure data and
13 as we get better and better at coming closer that
14 probably will increase over time.

15 So you're always going to have that catch
16 area where you've got to have an individual review
17 and look at the situation and see what the needs
18 are to help that person remain in the family home
19 if that's what they want. So that will always be
20 the -

21 MS. MADDEN: There should be a new section on
22 how to provide that individual review before you
23 run the iBudget and stick them with the budget.
24 Not before you run the budget perhaps but before
25 you actually implement the budget for that family.

1 MS. ARNOLD: Okay.

2 MS. MADDEN: So I think that is going back to
3 the earlier comment I made that - and you and I
4 discussed that, that there seems -

5 MS. ARNOLD: Yeah.

6 MS. MADDEN: - to be a need, so I'll try to
7 think of some language. Did not have a chance to
8 do it at this time.

9 MS. ARNOLD: Great.

10 MS. MADDEN: But it is a critical area but
11 will try to put in some actual legal language for
12 you.

13 MS. ARNOLD: Okay, thank you.

14 MS. MADDEN: Thank you.

15 MS. ARNOLD: Anyone else on the phone would
16 like to comment?

17 MS. FRENCH: This is just Gail French. I
18 wanted to concur with Ms. Madden about everything
19 that she stated. I'm in agreement with everything
20 that she said and I appreciate her bringing up
21 those issues.

22 MS. ARNOLD: Thank you.

23 MS. MADDEN: Denise, it's just that we
24 represent more family members than people in
25 facilities.

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MS. ARNOLD: Yes, and I'm glad you're on the phone.

MS. MADDEN: Thank you.

MS. ARNOLD: Anyone else on the phone need to make a comment?

Anyone else in the room here?


Okay. Well, again, we apologize for our technical difficulties on the phone. We will transcribe this. We will post the transcription. You have 'til May 14th to give us any other comments and then we will go from there with either moving towards final rule or doing another Notice of Change. That would be the two options.

So thank you very much for attending and we will end our public comment at this point.

(Whereupon, the meeting was closed.)

C E R T I F I C A T E1
2 THE STATE OF FLORIDA,)

3 COUNTY OF WAKULLA,)

4 I, Suzette A. Bragg, Court Reporter and
5 Notary Public, State of Florida at Large,6 DO HEREBY CERTIFY that the above-entitled
7 and numbered cause was heard as herein above set out;
8 that I was authorized to and did transcribe the
9 proceedings of said matter, and that the foregoing and
10 annexed pages, numbered 1 through 60, inclusive,
11 comprise a true and correct transcription of the
12 proceedings in said cause.13 I FURTHER CERTIFY that I am not related to
14 or employed by any of the parties or their counsel, nor
15 have I any financial interest in the outcome of this
16 action.17 IN WITNESS WHEREOF, I have hereunto
18 subscribed my name and affixed my seal, this 23rd day of
19 May, 2015.20
21 
22 SUZETTE A. BRAGG, Notary Public
State of Florida at Large
My Commission Expires: 2/21/2017