

NOTICE OF RULE DEVELOPMENT

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Agency for Persons with Disabilities

RULE NO.: 65G-12.001-011      RULE TITLE: PROVISION OF IN-HOME SUBSIDY FOR PERSONS RECEIVING SUPPORTED LIVING SERVICES

PURPOSE AND EFFECT: To establish a rule relating to the application for and the distribution of In-Home Subsidies to clients receiving either Medicaid funded or general revenue funded supported living services to enable the client to remain in his or her own home.

SUBJECT AREA TO BE ADDRESSED: Supported Living Services

RULEMAKING AUTHORITY (formerly "Specific Authority"): 393.501 FS

LAW IMPLEMENTED: 393.0695 FS, 393.066 FS

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY;

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Elizabeth Singh-Silva

Agency for Persons with Disabilities

4030 Esplanade Way, Suite 380

Tallahassee, FL 32399

(850) 488-4879

[elizabeth\\_singh-silva@apd.state.fl.us](mailto:elizabeth_singh-silva@apd.state.fl.us) If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Elizabeth Singh-Silva

Agency for Persons with Disabilities

4030 Esplanade Way, Suite 380

Tallahassee, FL 32399

(850) 488-4879

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

**CHAPTER 65G-12**

**PROVISION OF IN-HOME SUBSIDY FOR PERSONS RECEIVING SUPPORTED LIVING SERVICES**

65G-12.001      Definitions.

65G-12.002      Eligibility for Services.

65G-12.003      Allocation of General Revenue for In-Home Subsidies.

65G-12.004      Approval of an In-Home Subsidy.

65G-12.005      Financial Profile for an In-Home Subsidy.

65G-12.006      Maximum In-Home Subsidy Amount.

65G-12.007      Letter of Agreement.

65G-12.008      Use of In-Home Subsidy funds for Persons receiving Supported Living services.

65G-12.009      Reviews and Adjustments to Subsidy Amount.

65G-12.010      Payment Mechanism.

65G-12.011      Notice of Denial.

### **65G-12.001 Definitions.**

- (1) “Agency” means the Agency for Persons with Disabilities..
- (2) “Central Office” is the Agency’s headquarters located at 4030 Esplanade Way, Suite 380, Tallahassee, FL, 32399-0950; main phone number (850) 488-4257.
- (3) “Client” means any person determined eligible by the Agency for developmental disability services.
- (4) “Emergency Subsidy” means a supplement the Agency shall approve for a period of up to 90 days, in the event the financial situation of the client suddenly changes.
- (5) “Financial Profile” means a document that the Supported Living Coach or Support Worker is required to assist the client in completing in order to determine a need for an In-Home Subsidy. A copy of the “Financial Profile”, form APD-FPI, May 2012, incorporated herein by reference, may be obtained by writing or calling the Agency for Persons with Disabilities, at 4030 Esplanade Way, Suite 380, Tallahassee, FL 32399-0950; main phone number (850) 488-4257 and is available at: <http://apd.myflorida.com/customers/supported-living/index.htm>.
- (6) “In-Home Subsidy” means financial assistance the Agency provides to clients receiving Supported Living services when funds are available that the Agency reassesses quarterly to supplement the client’s income, based on his or her individual need as determined by the Financial Profile.
- (7) “Letter of Agreement” means a document signed by both the Agency or designee and the client or guardian, if appropriate, which describes the specific intent of the use of the In-Home Subsidy as well as the payment mechanism through which the client will receive the In-Home Subsidy.
- (8) “One-time In-Home Subsidy” means financial assistance the Agency provides to clients receiving Supported Living services when funds are available on a one time basis as a single supplement to the client’s income based on his or her individual need as determined by the Financial Profile.
- (9) “Payment Mechanism” means the method in which a One-time In-Home Subsidy, Recurring In-Home Subsidy, or a combination of both is distributed to the client.
- (10) “Provider” means an individual vendor, agency or direct service staff of an agency certified by the Agency for Persons with Disabilities to provide Supported Living services.
- (11) “Recurring In-Home Subsidy” means financial assistance the Agency provides to clients receiving Supported Living services when funds are available on a monthly basis as a supplement to the client’s income, based on his or her individual need as determined by the Financial Profile and reassessed quarterly or more frequently if necessary.
- (12) “Support Coordinator” means a person who is designated by the Agency to assist clients in identifying their desires, capacities, needs, and resources; find and gain access to necessary supports and services; coordinate the delivery of supports and services; and provide other assistance and support as defined in Section 393.063, F.S.
- (13) “Support plan” means a plan of supports and services for the individual developed in such a manner whereby the individual controls and directs the process. The support plan identifies the preferences and needs of the individual and authorizes the supports, resources, and services necessary to meet those preferences and needs.
- (14) “Supported Living Coach” means a service provider who provides training and assistance, in a variety of activities, to support clients who live in their own homes or apartments. For purposes of this rule, it is the responsibility of the Supported Living Coach to assist the client in completing the Financial Profile in order to substantiate the need for an In-Home Subsidy.
- (15) “Supported Living Coaching” means:

  - (a) Assistance in locating appropriate housing;
  - (b) Acquisition, retention, or improvement of skills related to activities of daily living; and
  - (c) Performance of activities with or on behalf of the client.
- (16) “Supported Living” 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.
- (17) “Support Worker” means a service provider who assists with or performs activities of daily living and other duties necessary to maintain the recipient in Supported Living. For purposes of this rule, if a client does not have a Supported Living Coach then the Support Worker shall assist the client in completing the Financial Profile.

(18) “Unavailability of Funds” means a reduction of funding due to the unavailability of resources. The Agency shall be the final authority as to the unavailability of Agency resources.

Specific Authority 393.501 FS. Law Implemented 393.0695, 393.066 FS. History–New 5-30-2012.

**65G-12.002 Eligibility Requirements for Services.**

(1) The In-Home Subsidy is limited to adult clients living in their own home and receiving Supported Living services.

(2) The Agency shall pay the In-Home Subsidy when it is determined that all of the following criteria have been met:

(a) It is in the best interest of the client to remain in his or her own home.

(b) It is more cost-effective for the client to remain in his or her own home rather than an out-of-home placement.

(c) The client would not be able to remain in his or her own home without the In-Home Subsidy.

(d) The client’s Financial Profile substantiates a need for the In-Home Subsidy, and

(e) General Revenue funding for the In-Home Subsidy is available.

(3) The Agency identifies and approves funds from their General Revenue appropriations.

Specific Authority 393.501(1) FS. Law Implemented 393.0695, 393.066 FS. History–New 5-30-2012.

**65G-12.003 Allocation of General Revenue for In-Home Subsidies.**

(1) The Agency shall allocate a portion of their General Revenue budget upon distribution of the annual operating budget for One-time In-Home Subsidies, Recurring In-Home Subsidies, and Emergency Subsidies.

(2) The Agency shall equitably distribute these funds in accordance with individual need as determined by the Financial Profile.

Specific Authority 393.501(1) FS. Law Implemented 393.0695, 393.066 FS. History–New 5-30-2012.

**65G-12.004 Financial Profile for an In-Home Subsidy.**

(1) The Financial Profile is a requirement for all persons receiving Supported Living services under the Developmental Disabilities Home and Community-Based Services (DD/HCBS) Waiver and shall be completed in order to determine the need for an In-Home Subsidy prior to any commitment on the part of the client to occupy a selected home.

(2) The Supported Living Coach shall assist the client in completing the Financial Profile in order to substantiate the need for an In-Home Subsidy.

(a) In the absence of a Supported Living Coach the Support Worker shall assume the duties and responsibilities for assisting the client in completing the Financial Profile and submitting a request for an In-Home Subsidy.

(b) In the absence of a Supported Living Coach and a Support Worker, the Support Coordinator shall assume the duties and responsibilities for assisting the client in completing the Financial Profile and submitting a request for an In-Home Subsidy.

(3) The Supported Living Coach or Support Worker, if appropriate, assists the client in completing the Financial Profile and submitting it to the Support Coordinator no more than 10 days following the selection of housing by the client or before the client relocates to a new home.

(4) If the Financial Profile indicates a need for a One-time or Recurring In-Home Subsidy the Agency will review the Financial Profile within 15 working days of receipt and determine eligibility for an In-Home Subsidy before the client signs a lease or mortgage agreement.

(5) The Financial Profile consists of an analysis of household costs and revenue sources associated with maintaining a balanced monthly budget for the client. The analysis must include the following:

(a) Facts supporting the need for a One-time In-Home Subsidy or a Recurring In-Home Subsidy;

(b) A list of the client's SSI, SSA, wages and other sources of income that will be used first and foremost;

(c) The full amount of start-up costs and on-going costs of maintaining the home;

(6) Clients must not commit to a living situation that is beyond their financial means prior to having the Agency review and approve the Financial Profile for an In-Home Subsidy.

*Specific Authority 393.501(1) FS. Law Implemented 393.0695, 393.066 FS. History--New 5-30-2012.*

#### **65G-12.005 Approval of an In-Home Subsidy.**

(1) The Agency must review the Financial Profile within 15 working days of receipt to ensure it substantiates a need for an In-Home Subsidy.

(2) The Agency shall identify and approve the funding source for the In-Home Subsidy if General Revenue funds are available in the operating budget.

(3) The Agency shall inquire with either the Support Coordinator, Supported Living Coach, or Support Worker, if appropriate, into the ability of the client to acquire roommates and/or be gainfully employed when making the decision to approve or deny an In-Home Subsidy.

(4) The Agency shall make certain that In-Home Subsidies are funds of last resort and the client has exhausted all other resources before granting approval for an In-Home Subsidy.

(5) The approvals of all In-Home Subsidies are subject to the update and approval of the client's support plan.

(6) If the client's third party benefits, wages and other sources of income are insufficient to pay the monthly rent, the Agency shall provide an In-Home Subsidy for a portion of the rent as well as other cost of living items identified in the Letter of Agreement, on condition that the funding source has been approved and all the eligibility requirements are met.

*Specific Authority 393.501(1) FS. Law Implemented 393.0695, 393.066 FS. History--New 5-30-2012.*

#### **65G-12.006 Maximum In-Home Subsidy Amount.**

(1) The maximum amount for a One-time In-Home Subsidy is \$2,000.

(2) The maximum amount for a Recurring In-Home Subsidy amount will be based on individual need, as determined by the Financial Profile, and must not exceed the Maximum Federal Supplemental Security Income (SSI) payment amounts, which can be found at the following web address: <http://www.ssa.gov/oact/cola/SSI.html>.

(3) The Agency or designee shall review and authorize all In-Home Subsidy amounts that exceed the maximum limits specified above.

(4) In the event that the Agency authorizes a Recurring In-Home Subsidy which exceeds the maximum allowed limits, the Recurring In-Home Subsidy shall be limited to 90 days.

(5) The Agency shall review and renew the Recurring In-Home Subsidy amount every 90 days, if substantiated by the Financial Profile and in accordance with the eligibility requirements in 65G-12.002.

*Specific Authority 393.501(1) FS. Law Implemented 393.0695, 393.066 FS. History--New 5-30-2012.*

#### **65G-12.007 Letter of Agreement.**

(1) Prior to the initial payment, the Agency shall prepare a Letter of Agreement with the client or guardian, if appropriate, as to the intended use of the In-Home Subsidy funds, including a specific list of allowable items the client intends to purchase.

(2) The Letter of Agreement shall be used for One-time In-Home Subsidies, Recurring In-Home Subsidies, and Emergency Subsidies.

(3) The Agency shall forward the Letter of Agreement to the Support Coordinator who shall obtain the signatures of the client or their guardian, if appropriate.

(4) The Letter of Agreement shall be placed in the client's central record and a copy shall be provided to the client and/or guardian, the Supported Living Coach or Support Worker, if appropriate, and the Support Coordinator.

*Specific Authority 393.501(1) FS. Law Implemented 393.0695, 393.066 FS. History--New 5-30-2012.*

**65G-12.008 Use of In-Home Subsidy funds for Persons receiving Supported Living services.**

(1) In-Home Subsidies are funds of last resort and shall only be granted when all other available resources are exhausted.

(a) Clients requesting a Subsidy for rental assistance must show proof that they have applied for rental assistance through U.S. Department of Housing and Urban Development (HUD) or other local governmental organization (e.g., the local public housing authority).

(b) Clients are expected to participate in utility/telephone company budget plans, if available.

(c) Clients who intend to use the In-Home Subsidy funds for food must show proof they have also applied for Food Stamps.

(2) The client and/or guardian, the Supported Living Coach or Support Worker, if appropriate, and the Support Coordinator shall identify a specific list of items the client intends to purchase with In-Home Subsidy funds.

(3) The use of the In-Home Subsidy are limited to essential items which must relate to the client's goal of remaining in his or her own home.

(4) The use of In-Home Subsidies shall be limited by the availability of funds.

(5) The Financial Profile must substantiate a need for the specific item(s) requested.

(6) In-Home Subsidy funds shall be used for items of personal property normally found in the home. The items must be used for maintenance, use, and occupancy of the home.

(7) The Agency shall take into consideration the average cost of items in the area, priority of need, and whether the client has explored other resources.

(8) Clients shall use the In-Home Subsidy funds to purchase the less costly alternative of the items listed in the Letter of Agreement which achieves the same purpose as the more costly items.

(9) In-Home Subsidy funds shall not be used to purchase non-essential household items and shall not be included in the Letter of Agreement, such items include:

(a) Satellite or cable TV,

(b) Maintenance of swimming pools,

(c) Vacations,

(d) Aesthetic home improvements,

(e) Contractor Services,

(f) Medical or Dental Services,

(g) Medicines, Medical Supplies, or adaptive equipment or aids,

(h) Any portion of the principle or interest of a mortgage payment except in emergency situations in which the client is granted an Emergency Subsidy,

(i) Premiums for life, auto, or medical/health insurance,

(j) Loans, debts, or credit card payments,

(k) Personal spending funds or savings accounts,

(l) Alcohol or cigarettes,

(m) Alimony payments or Child Support payments,

(n) Purchase or replacement of major appliances such as refrigerators, stoves, dishwasher, washer/dryer etc.,

(o) Computers or Tablet Personal Computers,

- (p) Cellular phones.
- (q) Second Telephone line.
- (r) Court costs, lawyer fees, traffic tickets, or fines.
- (s) Recreational items or expenses related to events and activities that an individual attends, such as admission to movies, dining out, etc..
- (t) Reimbursement of money owed for cost of expenses related to events and activities that an individual attends.
- (u) Capital improvements to property.
- (v) General repair and maintenance of property, such as repair of major appliances and HVAC systems.
- (w) Fees related to legal guardianship and legal guardianship reports.
- (x) Subsidies provided to Supported Living clients cannot be used to support or subsidize other persons in the household who are not approved to receive a In-Home Subsidy.
- (y) An In-Home Subsidy shall not be used to pay a contractor for the provision of services and supports to the client.
- (10) An In-Home Subsidy shall not be used to cover or replace supports or services which are allowable under the U.S. Department of Housing and Urban Development (HUD), Medicaid State Plan, Medicaid Home and Community-Based Services (HCBS) Waiver, or other governmental agency.

*Specific Authority 393.501(1) FS. Law Implemented 393.0695, 393.066 FS. History--New 5-30-2012.*

#### **65G-12.009 Reviews and Adjustments to Subsidy Amount.**

- (1) The Support Coordinator shall reassess the In-Home Subsidy on a quarterly basis, or more frequently if necessary to determine if the client's needs have increased, decreased, or changed to the extent that the Subsidy is no longer needed.
- (2) The Support Coordinator shall verify that the In-Home Subsidy funds have been spent appropriately and according to the Letter of Agreement.
- (3) During the quarterly meeting, the Support Coordinator will review receipts verifying the purchase of designated items as specified in the Letter of Agreement.
- (4) If the In-Home Subsidy funds have not been spent according to the terms of the Letter of Agreement, the Support Coordinator and the Agency shall take appropriate action to include:
  - (a) The provision of additional supports such as training or assistance with money management.
  - (b) Designating someone as a fiscal agent for the client.
  - (c) Decrease in the amount of the Subsidy, or
  - (d) Direct payment to the vendor (e.g., utility company, landlord, etc.) in lieu of a Subsidy payment to the client.
- (5) If a family member, guardian, or fiscal agent uses Subsidy funds in a way which is not for the sole benefit of the client or is in violation of the Letter of Agreement, the Support Coordinator and the Agency shall take action as warranted by the circumstance including a request for repayment of the funds, and, if necessary, make appropriate referrals to the State Attorney, Abuse Registry, or other appropriate authorities.
- (6) Situations that may affect the level of Subsidy payments include:
  - (a) If the client receives back payment for SSI or other benefits, or when benefits are reduced, the Financial Profile shall be updated to determine the need for an increase or decrease in the Subsidy payment.
  - (b) When there is a change in the number of roommates:
    - (i) The Financial Profile must be adjusted.
    - (ii) In the case of the loss of a roommate who shared expenses, the Agency shall approve a temporary Subsidy or increase in Subsidy for up to 90 days, if funds are available, and the Agency shall then review the need for the Subsidy every 30 days.
    - (iii) In cases where an additional roommate is added who will share expenses, the Financial Profile shall be updated to reflect a reduction in the Subsidy amount, if warranted.

(c) When a client receives a salary increase or decrease, the net affect must be considered and the Financial Profile shall be updated.

(d) The need for an increase or decrease in the Subsidy amount is based on the unique circumstances surrounding each individual case.

(7) The Agency shall approve an Emergency Subsidy for a period of up to 90 days in the event the financial situation of a client suddenly changes or they experience an unexpected expenditure that will result in the inability to meet monthly expenses in order to assist them in paying their bills.

(a) Emergency Subsidies are subject to the availability of funds.

(b) Clients shall complete the Financial Profile to substantiate the need for an Emergency Subsidy.

(c) The designated fiscal agent or the client, with assistance from their Support Coordinator, Supported Living Coach, or Support Worker, if appropriate, must supervise and oversee the use of Emergency Subsidy funds.

(d) The use of Emergency Subsidy payments shall include all areas of the cost of living including mortgage payments and rent.

(e) Emergencies resulting from the failure of support staff to adequately plan shall not be a reason to deny the Emergency Subsidy.

*Specific Authority 393.501(1) FS. Law Implemented 393.0695, 393.066 FS. History–New 5-30-2012.*

#### **65G-12.010 Payment.**

(1) Payments to clients eligible for In-Home Subsidies or to their families shall be in the form of either a one-time lump sum, a recurring supplement, or a combination of both.

(2) Payments shall be considered a client service rather than a purchase of service.

(3) Specifics regarding the intent and payment plan of the Subsidy must be addressed in the support plan or its addendum and in the Letter of Agreement.

(4) Payments shall be made directly to the client or his or her designated fiscal agent.

(5) If the client has been adjudicated incompetent, payments shall be made to the guardian, appointed fiscal agent, or representative payee.

(6) The Social Security Administration and the ACCESS Florida Food Program does not consider In-Home Subsidies as reportable income, therefore, Subsidy payments will not affect eligibility for Medicaid services.

*Specific Authority 393.501(1) FS. Law Implemented 393.0695, 393.066 FS. History–New 5-30-2012.*

#### **65G-12.011 Notice of Denial or Change of In-Home Subsidy Amount.**

(1) The Agency shall inform the client of the action taken on the client's request for an In-Home Subsidy and include adequate notice of any rights to an administrative hearing pursuant to Section 120.569 F.S.

*Specific Authority 393.501(1) FS. Law Implemented 393.0695, 393.066 FS. History–New 5-30-2012.*