

Notice of Development of Rulemaking

DEPARTMENT OF CHILDREN AND FAMILIES

Agency for Persons with Disabilities

RULE NOS.:RULE TITLES:

- 65G-13.001 Definitions
- 65G-13.004 Eligibility Requirements for In-Home Subsidies
- 65G-13.005 Approval Process for In-Home Subsidies
- 65G-13.006 Maximum In-Home Subsidy Amount
- 65G-13.007 Letter of Agreement
- 65G-13.008 Use of In-Home Subsidy Funds
- 65G-13.009 Reviews and Adjustments to Subsidy Amount
- 65G-13.010 Payment
- 65G-13.011 Notice of Denial or Change of In-Home Subsidy Amount

PURPOSE AND EFFECT: The purpose and effective of the rulemaking is to develop comprehensive rule language to implement the In-Home Subsidy Program pursuant to s. 393.0695, F.S.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed by the rulemaking is the implementation of the In-Home Subsidy Program pursuant to s. 393.0695, F.S.

RULEMAKING AUTHORITY: 393.0695(5), 393.501(1), FS.

LAW IMPLEMENTED: 393.0695, FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: November 8, 2018, 9:00 a.m.

PLACE: Agency for Persons with Disabilities, 4030 Esplanade Way, Room 301, Tallahassee, Florida 32399-0950
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 48 hours before the workshop/meeting by contacting: Kathleen Brown-Blake, Agency for Persons with Disabilities, 4030 Esplanade Way, Tallahassee, Florida 32399-0950, (850)922-9399, Kathleen.Brown-Blake @apdcares.org 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: Kathleen Brown-Blake, Agency for Persons with Disabilities, 4030 Esplanade Way, Tallahassee, Florida 32399-0950, (850)922-9399, Kathleen.Brown-Blake @apdcares.org

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

65G-13.001 Definitions

(1) Agency: The Agency for Persons with Disabilities.

(2) Central Record: A file, or a series of continuation files, based on Medicaid waiver Recipient's records, in paper or electronic format, kept by the Support Coordinator in which the following documentation must be recorded, stored, and made available for review. This will include recipient demographic data (including emergency contact information, parental or legal representative contact information, releases of information, and results of assessments, eligibility determination, evaluations, as well as medical and medication information), legal documents (such as power of attorney, healthcare surrogate, guardianship or guardian advocacy paper, and court orders), and service delivery information (including the original, or a copy, of the waiver eligibility determination, the current cost plan, cost plan or written authorization of services, and implementation plans, as required).

(3)(4) Client: Means An client individual served by the Agency for Persons with Disabilities who meets eligibility criteria as defined in Chapter 393 Section 393.063(9), F.S.

(4) Emergency Subsidy: A supplement to an In-Home subsidy that the Agency may approve for a period of up to 90 days, and occurs when the financial situation of the client suddenly changes and that client risks losing his or her housing due to the change.

(5) Family Member: Spouse, children, parents, grandparents, and siblings, including stepchildren, stepparents, stepsiblings and in-laws.

(6) Fiscal Agent: The person who serves as representative payee of a disability benefit payment, co-signer on bank accounts, maintains physical possession of banking records, or otherwise controls the client's finances.

(7)(2) iBudget Amount: Total amount of funds that have been approved by the agency, pursuant to the iBudget Rules, for a client ~~an individual~~ to expend for waiver services during a fiscal year.

(8)(3) iBudget: The home and community-based services Medicaid waiver program under Section 409.906, F.S., that consists of the waiver service delivery system utilizing individual budgets required pursuant to Section 393.0662, F.S., and under which the Agency for Persons with Disabilities operates the Developmental Disabilities Individual Budgeting Waiver.

(9)(4) Individuals and Family Supports (IFS): Means assistance the Agency provides on a temporary basis to meet in meeting critical services needs of clients individuals served by the Agency funded by Social Services Block Grant dollars and General Revenue.

(10)(5) Individual ~~Representative~~: The client's individual's parent (for a minor), guardian, guardian advocate appointed pursuant to Section 393.12, F.S., agent appointed pursuant to a designated person holding a power of attorney who is authorized to make ~~for~~ decisions regarding the client's health care or public benefits, ~~designated~~ attorney, ~~or a~~ healthcare surrogate, or in the absence of any of the above, the client's a medical proxy as determined under Section 765.401, F.S.

(11)(6) In-Home Subsidy: ~~Means~~ A type of financial assistance the Agency provides to a client living in his or her own homes, based on the client's needs identified in his or her Individual Financial Profile, and may be a one-time subsidy or an ongoing subsidy depending on the financial needs of the client for individuals receiving Supported Living services when funds are available that the Agency reassesses quarterly to supplement the individual's income, based on his or her individual need.

(12) Letter of Agreement: A document signed by an Agency staff member, support coordinator, and the client or the client's representative, that describes the specific intent of the use of the In-Home Subsidy as well as the intended payee(s).

(13)(7) Natural Support: Unpaid supports that are or may be provided voluntarily to the client individual in lieu of Waiver or IFS services and supports. Any determination of the availability of natural supports includes, but is not limited to consideration of the client's individual's caregiver(s) age, physical and mental health, travel and work or school schedule, responsibility for other dependents, sleep, and ancillary tasks necessary to the health and well-being of the client.

(14) Own Home: A house, apartment, or comparable living space chosen by the client and that meets housing standards identified on the Housing Survey Form identified in Rule 59G-13.070, F.A.C., and that the client chooses, owns or rents (the client's name is on the lease), controls, and occupies as a primary place of residence.

(15) Payment Mechanism: The method in which a One-time In-Home Subsidy, Recurring In-Home Subsidy, or a combination of both is distributed to a client.

(16) Quarterly Meeting: A meeting initiated by the support coordinator to assess a client's progress in achieving goals, to determine if services are satisfactory, and to review the Health and Safety Checklist and Housing Survey to identify any needed changes or follow up. The Health and Safety Checklist and Housing Survey forms are found in the Developmental Disabilities iBudget Coverage and Limitations Handbook, as adopted in Rule 59G-13.070, F.A.C.

(17)(8) Regional Office: Agency for Persons with Disabilities office serving a designated local geographical area.

(18)(9) Social Services Block Grant (SSBG): Federal funds that enable states to furnish social services to meet the needs of clients individuals residing within a state.

(19) Start-Up In-Home Subsidy: financial assistance the Agency provides to a client moving to his or her own home that is provided on a one time basis as a single supplement to the client's income to cover start-up costs based on his or her individual needs as determined by the client's Individual Financial Profile when funds are available.

(20) Support Coordinator: is as defined in Section 393.063, F.S., whether funding through General Revenue or the waiver.

(21) Support Plan: an individualized plan of supports and services designed to meet the needs of a client.

(22) Supported Living Coach: A provider who assists a client in locating appropriate housing; and who assists a client in the acquisition, retention, or improvement of skills related to activities of daily living, household chores, meal preparation, shopping, personal finances, and social and adaptive skills necessary to enable the client to reside in his or her own home.

(23) Unavailability of Funds: The servicing region has obligated all of its available budgeted funding for IFS expenditures. The Agency shall be the final authority as to the unavailability of funds.

(24)(40) Waiting List: ~~Is~~ The prioritized list of clients maintained by the Agency ~~APD Central Office of Persons with Disabilities~~ that have been determined eligible for Agency APD services and are waiting eligible to receive waiver services when funding becomes is available pursuant to s. 393.065(5), F.S.
Rulemaking Authority 393.0695(5), 393.501(1) FS. Law Implemented 393.0695, 393.066 FS. History– Amended _____.

65G-13.004 Eligibility Requirements for In-Home Subsidies

(1) The In-Home Subsidy is limited to a client of the Agency who is eighteen years or older, and who resides in his or her own home.

(2) Renting a room in the home of a relative under a lease does not meet the eligibility criteria for an In-Home Subsidy.

(3) With the exception of start-up in-home subsidies, a copy of the current signed lease agreement between the client and landlord must be provided to the Agency. A month-to-month lease is not considered a valid lease for the purposes of this rule. The client must sign any renewal lease on or before the renewal date and provide it to the Agency annually. In the case of start-up in-home subsidies, a copy of the un-signed proposed lease must be submitted before approval of the start-up in-home subsidies.

(4) The Agency will not reimburse start-up expenses that the client incurred prior to receiving approval for Start-up funds.

(5) The Agency may approve the In-Home Subsidy when it is determined that all of the following criteria have been met:

(a) The client has demonstrated that remaining in his or her own home does not jeopardize his or her health and safety needs;

(b) The client has demonstrated that he or she has used all resources or options to reduce costs;

(c) The costs related to the In-Home Subsidy request are reasonable for the geographical area where the client lives;

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

(e) The client's Individual Financial Profile substantiates a need for the In-Home Subsidy; and

(f) The Agency has available funding for the In-Home Subsidy.

(6) The Agency identifies and approves funds for the In-Home Subsidy to include the start-up costs for an client moving into his or her own home. A detailed list of covered items can be found in Rule 65G-13.008, F.A.C.

Rulemaking Authority 393.0695(5), 393.501(1) FS. Law Implemented 393.0695, 393.066 FS. History– New _____.

65G-13.005 Approval Process for In-Home Subsidies

(1) The Agency shall distribute funds for In-Home Subsidies in accordance with client need as determined by the client's Individual Financial Profile, subject to the availability of funds.

(2) The applicant shall complete an Individual Financial Profile and an In-Home Subsidy Request/Approval Form to request an In-Home Subsidy. The Individual Financial Profile, Form # _____, effective August 2018, adopted and incorporated herein, may be found at _____. The In-Home Subsidy Request/Approval Form, Form # _____, effective August 2018, adopted and incorporated herein, may be found at _____.

(3) At the time a client completes an Individual Financial Profile or an updated Individual Financial Profile, the following individuals must provide assistance in completing the Individual Financial Profile:

(a) If a client has a Supported Living Coach, the Supported Living Coach shall assist the client in completing his or her Individual Financial Profile to substantiate the need for an In-Home Subsidy. The client or the client's

Supported Living Coach must send the client's completed Individual Financial Profile to the Support Coordinator no more than 10 calendar days following the selection of housing by the client and prior to signing the lease.

(b) The Support Coordinator shall review the Individual Financial Profile to verify that it accurately reflects all sources of income and monthly expenses of the client. The Support Coordinator shall submit the client's Individual Financial Profile to the Regional Office within 5 calendar days of receipt.

(c) If a client does not have Supported Living Coaching services, the Support Coordinator shall assist the client in completing his or her Individual Financial Profile and submit the Individual Financial Profile to the Regional office no more than 10 calendar days following the selection of housing by the client and prior to signing the lease.

(4) If a client's Individual Financial Profile indicates a need for a start-up in-home subsidy or Recurring In-Home Subsidy, the Agency will review the Individual Financial Profile within 30 calendar days of receipt and determine the client's eligibility for an In-Home Subsidy before the client signs a lease. If the Agency determines that additional information is required to determine eligibility, the Agency must request additional information, in writing, within 30 calendar days and must allow the client at least 10 days to provide the information and the determination must be made within 60 days of the initial request.

(5) A client who requests to receive an in-Home Subsidy from the Agency should not commit to a living situation that is beyond his or her financial means prior to having the Agency review and approve his or her Individual Financial Profile for an In-Home Subsidy. The Agency is not responsible for the costs of the living arrangement that the client agrees to in a lease or mortgage.

(6) If funds are available, and the client qualifies and has been approved, the Agency shall identify and approve the funding source for the In-Home Subsidy.

(7) The client must exhaust any other revenue source available before seeking a subsidy from the agency. The Support Coordinator and Supported Living Coach must assist the client in obtaining additional revenue sources. Analysis of other revenue sources for the client, may include, but is not limited to:

(a) Seeking employment;

(b) Obtaining potential roommates to share costs with the client;

(c) Seeking any subsidized housing options for the client;

(d) Applying for supplemental nutrition assistance program (SNAP); and

(e) Seeking any other resources available to the client.

(8) The approvals of all In-Home Subsidies may be reduced or eliminated if funds are not available or if funds are used outside the scope of the In-Home Subsidy Letter of Agreement.

Rulemaking Authority 393.0695(5), 393.501(1) FS. Law Implemented 393.0695, 393.066 FS. History—New _____.

65G-13.006 Maximum In-Home Subsidy Amount

(1) The maximum amount for an In-Home Subsidy will be based on client need, as determined by the client's Individual Financial Profile.

(2) The Agency shall review any Emergency In-Home Subsidy amount every 90 days, and renew the Emergency In-Home Subsidy if substantiated by the client's Individual Financial Profile and in accordance with the eligibility requirements in Rule 65G-13.004, F.A.C.

Rulemaking Authority 393.0695(5), 393.501(1) FS. Law Implemented 393.0695, 393.066 FS. History—New _____.

65G-13.007 Letter of Agreement

(1) Prior to the initial payment and any subsequent changes in the subsidy amount, the Agency shall prepare a Letter of Agreement, Form # _____ effective August 2018, adopted and incorporated herein, which may be obtained at _____. This Letter of Agreement shall be for the signature of the appropriate parties, and will reflect the approved subsidy amount as well as specific use of such funds.

(2) The Letter of Agreement shall be used for a Start-Up Subsidy, an In-Home Subsidy, an Ongoing In-Home Subsidy, and an Emergency Subsidy.

(3) The client's Support Coordinator must determine whether a client has a client representative and inform the agency of the identity and contact information for the client representative. The Agency shall forward the Letter of

Agreement to the Support Coordinator who shall sign the letter and obtain the signatures of the client or his or her client representative, 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, the client's guardian, Supported Living Coach, and Support Coordinator.

Rulemaking Authority 393.0695(5), 393.501(1) FS. Law Implemented 393.0695, 393.066 FS. History—New _____.

65G-13.008 Use of In-Home Subsidy Funds

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

(a) A client requesting an In-Home Subsidy for rental assistance must show proof that he or she has applied for rental assistance through the U.S. Department of Housing and Urban Development or other local governmental organization (e.g., the local public housing authority).

(b) A client is expected to participate in utility/telephone company budget plans, if available or through other low income cellular phone assistance programs. In-Home Subsidy funds may be used to pay the cost of cellular phone service if it does not cost more than a landline telephone service. A cost comparison of cellular phone services and landline telephone service shall be included in the client's Individual Financial Profile.

(c) A client who intends to use the In-Home Subsidy funds for food must show proof that he or she has also applied for SNAP benefits.

(2) The request for an In-Home Subsidy must identify a specific list of items intended for purchase with In-Home Subsidy funds.

(3) The use of the In-Home Subsidy is limited to essential items that 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) A client's Individual Financial Profile must substantiate his or her need for the specific item(s) requested.

(6) In-Home Subsidy funds may not be used for items of personal property normally found in the home.

(7) In determining whether a request is approved, the Agency shall consider the priority of need, as defined in the IFS Rule 65G-13.003, F.A.C., and whether the client has explored other resources.

(8) In determining the amount of the In-Home Subsidy, the Agency shall take into consideration the average cost of items in the geographical area where the client lives.

(9) The use of In-Home Subsidy funds shall be used to purchase the less costly alternative of the items listed in the Letter of Agreement.

(10) In-Home Subsidy funds shall not be used to purchase restricted items and such items shall not be included in the Letter of Agreement. Restricted items include:

(a) Satellite or cable television services or the purchase of a television;

(b) Maintenance of a swimming pool;

(c) Vacation travel or accommodations;

(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 principal 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 nicotine products or supplies;

(m) Alimony payments or child support payments, or any payments that are for the direct benefit of a child or children who reside in the home with a client receiving the In-Home Subsidy;

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

(o) Computers or tablet personal computers;

(p) Second telephone line;
(q) Court costs, lawyer fees, traffic tickets, or fines;
(r) Recreational items or expenses related to events and activities that an client attends;
(s) Reimbursement of money owed for cost of expenses related to events and activities that an client attends;
(t) Capital improvements to property;
(u) General repair and maintenance of property, such as repair of major appliances and heating, ventilation, and air conditioning systems;
(v) Fees related to legal guardianship and legal guardianship reports;
(w) Property taxes;
(x) Supporting or subsidizing any other person living in the client's household;
(y) Providing direct services and supports to a client who is the recipient of the In-Home Subsidy; and
(z) Covering or replacing supports or services which are allowable under the U.S. Department of Housing and Urban Development, the Medicaid State Plan, the Medicaid Home and Community-Based Services Waiver, or any other governmental agency.
Rulemaking Authority 393.0695(5), 393.501(1) FS. Law Implemented 393.0695, 393.066 FS. History—
New _____.

65G-13.009 Reviews and Adjustments to Subsidy Amount

(1) The Supported Living Coach, or the Support Coordinator, if there is no Supported Living Coach, shall reassess a client's need for the In-Home Subsidy on a quarterly basis, or more frequently if necessary to determine the client's ongoing need for the subsidy. The Support Coordinator must also document this activity in his or her case notes.

(2) The Support Coordinator shall verify that the In-Home Subsidy funds have been spent appropriately and according to the Letter of Agreement and must document this activity in his or her case notes.

(3) During the quarterly meeting, the Support Coordinator shall 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 which may include:

(a) Providing additional supports to the client who is the recipient of the In-Home Subsidy funds such as training or assistance with money management;

(b) Assisting in locating someone to provide financial management for the client who is the recipient of the In-Home Subsidy;

(c) Terminating or decreasing the amount of the subsidy; or

(d) Disbursing direct payment to the vendor (e.g., utility company, landlord, etc.) in lieu of disbursing an In-Home Subsidy payment to the client who is the recipient of the funds.

(5) If a family member, guardian, fiscal agent or any other person who controls the finances of a client who is the recipient of an In-Home Subsidy uses the funds in a way that 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. Such action shall include a request for repayment of the funds. If necessary, the Support Coordinator or Agency shall make appropriate referrals to the State Attorney, Department of Children and Families, law enforcement, or other appropriate authorities.

(6) Pursuant to the requirements of Rule 65G-13.005, F.A.C., a client must complete and submit a new Individual Financial Profile to the Regional Office when circumstances affect the client's need for an In-home Subsidy. Circumstances that affect a client's need for an In-Home Subsidy include, but are not limited to:

(a) A change in Social Security payments;

(b) The client receives any back payment for social security income or other benefits;

(c) Change in cost-sharing arrangements between roommates;

(d) Change in employment status;

(e) Change in availability of subsidized housing;

(f) Change in the income of a client or a family member;

(g) Change in housing or rent expenses;

(h) Eviction due to non payment of rent requiring the client to secure an alternative living arrangement;

(i) Pest infestation not covered in rental agreement;

(j) Loss of child support payments for any client who has children;

(k) Major home repairs and or damages not covered by landlord under a lease or agreement, renter insurance, or home owners insurance.

(8) In the case of the loss of a roommate who shared expenses with the client, the Agency may approve a temporary In-Home Subsidy until a new roommate is selected to share costs. Under such circumstances, if the Agency approves a temporary In-Home Subsidy, the Agency shall review the need for the subsidy every 30 calendar days.

(9) Each client's unique circumstances shall determine the need for an increase or decrease of an In-Home Subsidy.

(10) In order to assist a client in paying his or her bills, the Agency may approve an Emergency Subsidy for a period of up to 90 days.

(11) A client must complete a new Individual Financial Profile to substantiate the need for a request for an Emergency Subsidy.

(12) The client who is the recipient of an Emergency Subsidy must manage the use of such funds with the assistance of his or her designated fiscal agent, Support Coordinator, or Supported Living Coach.

(13) The client shall review his or her bank statements, checkbook, and other public benefits to ensure continued Medicaid eligibility. If a family member, guardian, fiscal agent or any other person assists the client in financial management, he or she shall assist the client in the review of the client's bank statements, checkbook, and other public benefits.

Rulemaking Authority 393.0695(5), 393.501(1) FS. Law Implemented 393.0695, 393.066 FS. History—
New _____.

65G-13.010 Payment

(1) Payments for a client who is eligible for an In-Home Subsidy 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 an individual service rather than a purchase of service.

(3) Details regarding the intent and payment plan of the In-Home Subsidy must be documented by the client's Support Coordinator in the support plan or its addendum and by the Agency in the Letter of Agreement.

(4) Upon receipt of an approved invoice, payments should be made to the entity for which the subsidy is being requested (i.e. landlord, utility/phone company) in lieu of payments directly to the person whenever possible.

(5) If the client has been adjudicated incompetent, payments shall be made to the guardian, appointed fiscal agent, or representative payee when payments directly to the vendor are not possible.

Rulemaking Authority 393.0695(5), 393.501(1) FS. Law Implemented 393.0695, 393.066 FS. History—
New _____.

65G-13.011 Notice of Denial or Change of In-Home Subsidy Amount

(1) The Agency shall inform the client of the decision to deny or partially deny, reduce, or terminate an In-Home subsidy and provide adequate notice of any rights to an administrative hearing pursuant to Sections 120.569, and 120.57, F.S. Circumstances for a denial include, but are not limited to, the following:

(a) The client does not reside in an eligible supported living arrangement as defined in Sections 393.063(43), or 393.0695, F.S.

(b) The client is requesting an In-Home Subsidy for items not authorized by Subsection 393.0695(2), F.S. or Chapter 65G-13, F.A.C.

(c) A request cannot be granted within the limits of the Agency's appropriated funds and Florida law prohibits the Agency from spending or committing funds in excess of Agency's appropriation.

(d) Items requested are in excess of the client's needs in accordance with medical necessity criteria in Rule 59G-1.010, F.A.C.

Rulemaking Authority 393.0695(5), 393.501(1) FS. Law Implemented 393.0695, 393.066 FS. History—
New _____.