

Notice of Proposed Rule

DEPARTMENT OF CHILDREN AND FAMILIES

Agency for Persons with Disabilities

RULE NOS.:RULE TITLES:

- 65G-13.001 Definitions
- 65G-13.002 Individual and Family Supports (IFS) Procedure
- 65G-13.003 Individual and Family Supports Criteria
- 65G-13.004 In-Home Subsidy Procedure
- 65G-13.005 In-Home Subsidy Criteria
- 65G-13.006 In-Home Subsidy Restrictions
- 65G-13.007 In-Home Subsidy Review

PURPOSE AND EFFECT: The purpose and effect of these rules and rule amendments is to clarify the process and criteria used by the Agency for Persons with Disabilities (“Agency”) to review and approve or deny requests for Individual and Family Support (“IFS”) services. Additionally, these rules implement section 393.0695, Florida Statutes, which requires rulemaking. The rules establish the process and criteria used by the Agency to approve or deny requests for in-home subsidies.

SUMMARY: Regarding Rule 65G-13.001, the definitions are expanded to include services listed in this chapter and to increase clarity of certain terms used in the new and amended rules. Regarding Rules 65G-13.002 and 13.003, the IFS application process is clarified; the permitted and disallowed IFS services are clarified; and eliminates the utilization of priority criteria. New rules 65G-13.004 through 13.007, are added to implement in-home subsidies by adopting: approval criteria; the process for approval and denial; procedures for applying; incorporating the Individual Financial Profile form that will be used to determine the individual need pursuant to a request for an in-home subsidy; and the allowable and non-allowable uses for which the subsidy can be used.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The SERC can be summarized as follows: the rules do not have an adverse impact on small business and are not likely to increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of each rule; the Agency determined that the amendments to these rules do not have an adverse impact on economic growth, private sector job creation or employment, private sector investment, business competitiveness, productivity, or innovation, nor do they increase regulatory costs, including transactional costs, in excess of \$200,000 in the aggregate within one year or in excess of \$1 million in the aggregate within five years after the implementation of the amendments to these rules; these rules are necessary to implement the mandatory ruling making provision of section 363.0695, F.S., regarding the use of in-home subsidies; and these rules clarify the implementation of services described in 393.066, F.S.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: A SERC Checklist and SERC were prepared by the Agency to determine the need for legislative ratification. Based on this information at the time of the analysis, summarized above, and pursuant to section 120.541, Fla. Stat., the rules will not require legislative ratification because costs will not be in excess of \$1 million in the aggregate within 5 years after the implementation of the rules.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 393.066, 393.0663, 393.0695, 393.501, F.S.

LAW IMPLEMENTED: 393.063, 393.066, 393.0663, 393.0695, F.S.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Brett Taylor, Agency for Persons with Disabilities, 4030 Esplanade Way, Suite 335, Tallahassee, Florida 32399-0950, (850)410-1309, brett.taylor@apdcares.org.

THE FULL TEXT OF THE PROPOSED RULE IS:

Substantial rewording of Rule 65G-13.001, F.A.C. follows. See Florida Administrative Code for current text.

65G-13.001 Definitions.

(1) “APD iConnect” or “iConnect” means the Agency for Persons with Disabilities’ (“Agency”) designated data management system as described in section 393.066(2), Florida Statutes (F.S.), chapter 65G-12, Florida Administrative Code (“F.A.C.”), and the Florida Medicaid Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook (“iBudget Handbook”), which is incorporated by reference in Rule 59G-13.070, F.A.C.

(2) “Central record” means, as described in section 393.13(4)(i), F.S., a collection of paper or electronic files established by the Agency that pertains to each client. Each client central record is maintained by his or her support coordinator and contains the client’s updated demographic information; contact information for the client’s legal representative(s); releases of information; legal documents (such as a designation of power of attorney, healthcare surrogate, or guardianship, as well as guardian advocate papers and court orders); medical and medication information; results of assessments, eligibility determinations, and evaluations; and service delivery information, including cost plans, written service authorizations, and implementation plans, as required.

(3) “Client” has the same meaning as provided in section 393.063, F.S.

(4) “Family care services” means direct supports provided through the IFS program to clients in the family home.

(5) “Family home” means the primary residence occupied by the client and any of the client’s family member(s).

(6) “Family member” means a spouse, child, parent, grandparent, sibling, aunt, uncle, niece, nephew, stepchild, stepparent, stepsibling, in-law, and adoptive relationships, who is not a client of the Agency.

(7) “Fiscal agent” means a person who serves as the designated payee of a disability benefit payment, is a co-signer on bank accounts, maintains physical possession of banking records, or otherwise controls the client’s finances.

(8) “Guardian advocate referrals” mean referrals or recommendations to organizations in order to obtain a guardian advocate, as defined in section 393.063, F.S., to represent a client of the Agency pursuant to section 393.12, F.S.

(9) “Habilitative services” means specific training activities that help a client to acquire, maintain, or improve self-help, socialization, and adaptive skills to enable a client to reside in the community.

(10) “Home and Community-Based Services (“HCBS”) Waiver” or “Waiver” means the Medicaid waiver program authorized by 42 U.S.C. 1396n(c)(1) of the Federal Social Security Act and section 409.906, F.S., the administration of which the Agency for Health Care Administration (“AHCA”) is responsible, and which consists of the Waiver service delivery system and utilizes individual budgets that are required pursuant to section 393.0662, F.S., under which the Agency, in consultation with AHCA, operates the Developmental Disabilities Individual Budgeting (“iBudget”) Waiver.

(11) “Imminent serious jeopardy” means a situation in which a client or other individual(s) are likely to encounter substantial harm within the immediate future without the provision of Individual and Family Supports to the client, or the client would require institutionalization without Individual and Family Supports within the immediate future.

(12) “Individual and Family Supports” or “IFS” means temporary assistance the Agency provides to meet critical service needs of a client, funded by Social Services Block Grant funds and General Revenue funds.

(13) “Individual Financial Profile” or “IFP” means a profile developed by a client of the Agency or a client’s legal representative and the client’s support coordinator or, if applicable, supported living coach, which accurately reflects the client’s finances and is required to determine the client’s need for an in-home subsidy.

(14) "In-home subsidy" or "IHS" means a type of financial assistance the Agency may provide to a client living in his or her own home, based on the client's needs identified in his or her Individual Financial Profile, with supporting documentation, that is either provided monthly or as a one-time basis. The subsidy includes the following:

(a) "Monthly in-home subsidy" means financial assistance the Agency may provide on a monthly basis for a set amount of time to a client who has demonstrated an ongoing need for financial assistance in order to live in his or her own home.

(b) "Start-up in-home subsidy" means financial assistance the Agency may provide to, which is approved on a one-time basis as a single supplement to the client's income to cover start-up costs based on the client's individual needs.

(15) "Legal representative" means a person with designated authority by law to act on behalf of an applicant or client to obtain Agency services. A legal representative may include:

(a) for an applicant or client under the age of 18 years:

1. the parents of a minor child whose rights have not been terminated;

2. health care surrogate appointed by a Florida court to represent the child; or

3. anyone appointed by a Florida court as a guardian or guardian advocate under chapters 393 or 744, F.S.

(b) for an applicant or client age 18 years or older:

1. anyone designated by the client through a Power of Attorney or Durable Power of Attorney;

2. a medical proxy under chapter 765, F.S.;

3. health care surrogate; or

4. anyone appointed by a Florida court as a guardian or guardian advocate under chapters 393 or 744, F.S.

(16) "Medicaid State Plan" means a comprehensive written statement established by the AHCA, as the single state agency, describing the scope and nature of the Medicaid program. The Plan outlines current Medicaid eligibility standards, policies and reimbursement methodologies to ensure the state program receives matching federal funds under Title XIX of the Social Security Act.

(17) "Medical/dental services" means the same as defined in section 393.063, F.S.

(18) "Medically Necessary" shall have the same meaning as the iBudget Handbook.(19) "Natural support" means unpaid supports that are or may be provided voluntarily to the client in lieu of Waiver or IFS. Any determination of the availability of natural supports includes but is not limited to consideration of the client'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.

(20) "Own home" means a house, apartment, or comparable living space that:

(a) the client chooses, rents or owns, controls, and occupies as a primary place of residence;

(b) meets the HUD housing quality standard found in 24 C.F.R. 982.401;

(c) is not a family home as defined in subsection (7) of this rule; and

(d) is not a licensed residential facility.

(21) "Parent training" means training for parents and caregivers as part of the implementation of a formal behavior analysis services plan that is designed, implemented or monitored and approved as required by Rule 65G-4.009 and Rule 65G-4.010, F.A.C., or self-advocacy training. This includes classes in the community and individualized training in the home for parents/caregivers of clients which is designed to increase his or her knowledge of developmental disabilities, child development, parenting skills, advocacy skills, or accessing and organizing services for the client. This includes parent and caregiver training as part of Behavior Analysis and Behavior Assistant services.

(22) "Provider" means an individual vendor, agency, or direct service staff of an agency certified or approved by the Agency to provide services to Agency clients.

(23) "Quarterly meeting" means a meeting initiated by the support coordinator to assess a client's progress in achieving goals, to determine if services are sufficient and satisfactory, to ensure that housing continues to meet the requirements, and to review the client's overall health, safety, and wellbeing.

(24) "Recreation" therapeutic activities utilized to provide temporary relief for a brief planned absence of the caregiver in a community setting.

(25) "Regional office" means one of the Agency's offices serving a designated geographic area of the State.

(26) “Rehabilitative services” mean specific training activities that help a client to restore or regain self-help, socialization, and adaptive skills to enable a client to reside in the community.

(27) “Residential facility services” means room and board, supervision, training activities, and other habilitative and rehabilitative services provided to persons with developmental disabilities in a residential facility as defined in section 393.063, F.S.

(28) “Respite services” means short-term, temporary care provided due to a primary caregiver’s brief planned or emergency absence, or when the primary caregiver is available but temporarily physically unable to care for or supervise the client for a brief period of time.

(29) “Roommate” means an individual who resides with a client and pays a share of the housing’s expenses.

(30) “Significant” means of considerable magnitude or considerable effect.

(31) “Social services” mean services provided by a support coordinator, support planning, psychological evaluations, interpreter services, and court-ordered competency training.

(32) “Specialized therapies” mean treatments or activities prescribed and provided by an appropriately trained, licensed, or certified professional or staff person, including but not limited to physical therapy, speech therapy, occupational therapy, respiratory therapy, specialized mental health counseling, behavior analysis, behavior assistant services, dietician, and physical management services.

(33) “Support coordinator” means the same as defined in section 393.063, F.S. For clients enrolled in the CDC+ Program, this term includes the CDC+ Consultant.

(34) “Supported Living” means a category of individually determined services that are medically necessary to prevent institutionalization and 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.

(35) “Supported living coach” means 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 the activities of daily living, household chores, meal preparation, shopping, personal finances, and any social and adaptive skills necessary to enable the client to reside in his or her own home.

(36) “Supported living services” 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 his or her own homes, to be integrated into the community, and to participate in community life to the fullest extent possible as stated in section 393.063, F.S., which meets the requirements described in chapter 65G-5, F.A.C.

(37) “Support plan” means an individualized and person-centered plan of supports and services designed to meet the daily needs of a client and to help the client live as independently as possible.

(38) “Transportation” means provision of rides to and from services or employment to enable a client to receive the supports and services identified on the support plan and authorized by the Agency.

(39) “Unavailability of funds” means the Agency has obligated all of the available budgeted funds for IFS expenditures.

(40) “Waiting List” means the prioritized list of clients, maintained by the Agency, that have been determined eligible for Agency services and are waiting to receive Waiver services when funding becomes available pursuant to s. 393.065(5), F.S.

(41) This Rule shall be reviewed, and if necessary, renewed through the rulemaking process five years from the effective date.

Rulemaking Authority 393.066(8), 393.0663, 393.0695, 393.501(1), F.S. Law Implemented 393.063, 393.066, 393.0663, 393.0695, F.S. History—New 8-28-16; Amended _____.

Substantial rewording of Rule 65G-13.002, F.A.C. follows. See Florida Administrative Code for current text.

65G-13.002 Individual and Family Supports (IFS) Procedure.

(1) Requesting IFS.

(a) A request for IFS can be made orally or in writing to the appropriate Agency regional office by a client, client’s legal representative, or client’s support coordinator. IFS can also be initiated by the Agency.

(b) A request for IFS must include:

1. the name and address of the client for whom IFS is being requested;
2. if the requester is different than the client, the name, contact information, and relationship with the client of the individual submitting the IFS request;

3. a description of the specific need to be addressed by the requested IFS service(s);

4. documentation that demonstrates the specific need to be addressed by the requested IFS service(s); and

5. an explanation of the efforts taken to address those needs through other funding sources and natural supports.

(2) Within 30 calendar days of receipt of a request for IFS, the Agency will approve, partially approve, deny, reduce, terminate, or request additional documentation to supplement the request. If additional documentation or information is requested, the deadline for the Agency's response shall be extended to 60 calendar days following the receipt of the original request for IFS.

(a) If the Agency requests additional documentation:

1. the requester shall either:

a. provide the requested documentation or information within 10 calendar days of the date of the written notice;

or

b. notify the Agency in writing that the individual requesting IFS wishes the Agency to render its decision based upon the documentation and information provided with the initial request.

2. If the Agency does not receive the requested additional information, the Agency will make a determination of the request for IFS based on the information available.

(3) Prior to authorizing the use of IFS, the support coordinator or, if the client is not enrolled on the Waiver, the Agency, shall assist the client with exploring alternative funding and service(s) options for which the individual may be eligible to receive in accordance with subsection 65G-13.003(3), F.A.C.

(a) If alternative funding and/or service(s) options are available or become available, the Agency shall partially approve, deny, reduce, or terminate the request for IFS to the extent not covered from the alternative funding and/or service(s).

(b) The support coordinator shall document in iConnect the alternative options that were explored.

(4) Approval for IFS.

(a) IFS funds can only be encumbered for the current fiscal year.

(b) IFS will not be approved retroactively, except in limited circumstances:

1. to correct an administrative error; or

2. on a case-by-case basis to consider a health and safety risk to the client or emergency situations.

(c) The regional office shall only approve IFS for clients who meet the IFS eligibility criteria described in Rule 65G-13.003, F.A.C., and the Agency has available funds.

(5) IFS shall not be approved for goods or services if the client:

(a) requested and was denied the same goods or services provided under the Medicaid State Plan and/or the Waiver under the same or substantially similar circumstances; and/or

(b) is in the process of disputing a denial or termination pertaining to the same goods or services under the Medicaid State Plan and/or the Waiver.

(6) Denial or Partial Approval of IFS.

(a) If the regional office concludes that the client's request does not meet or only partially meets the IFS criteria described in Rule 65G-13.003, F.A.C., the regional office shall deny, reduce, partially approve, or terminate the IFS request and provide written notification of the denial to the client or client's legal representative within the timeframe established in subsection (2) of this Rule.

(b) If the Agency denies or partially approves a request for IFS based on lack of documentation and additional documentation subsequently becomes available, or there is a change in the client's situation, client may submit a new request for IFS, at any time, to the regional office.

(c) The Agency shall not authorize the use of IFS that exceed the appropriation amount. Unavailability of funds is sufficient reason to deny a request for IFS.

(7) Reduction or Termination of IFS. If any time after an approval of IFS the agency determines that a client does not meet all the eligibility requirements, the Agency may reduce or terminate the benefit by providing written notification to the client or client's legal representative.

(8) Anytime IFS are denied, partially approved, reduced, or terminated, the client shall have the right to request an administrative hearing pursuant to sections 393.125(1)(b), 120.569 and 120.57, F.S., within 30 calendar days of receipt of notification.

(9) This Rule shall be reviewed, and if necessary, renewed through the rulemaking process five years from the effective date.

Rulemaking Authority 393.066(8), 393.0663, 393.501(1), F.S. Law Implemented 393.063, 393.066, 393.0663, F.S. History—New 8-28-16; Amended_____.

Substantial rewording of Rule 65G-13.003, F.A.C. follows. See Florida Administrative Code for current text.

65G-13.003 Individual and Family Supports Criteria.

(1) IFS may only be approved for clients when community-based services are medically necessary to prevent institutionalization under section 393.066(3), F.S., which may include the use of IFS to avert a crisis as described in section 393.065(5)(a), F.S. and division 65G, F.A.C.

(2) Clients enrolled on the Waiver must not receive IFS services that are the same or substantially the same as the services offered on the Waiver, except for:

(a) a client approved for and actively enrolling onto the Waiver, the client shall demonstrate imminent serious jeopardy prior to Waiver enrollment. The provision of IFS shall only be approved to directly address the imminent serious jeopardy and must end on the effective date upon commencement of Waiver services that addresses the imminent serious jeopardy. The utilization of IFS will be reviewed on the 90th day from the date the client applied for enrollment onto the Waiver for clients who have not yet enrolled onto the Waiver by the 90th day.

(b) a client with a pending Significant Additional Need (“SAN”) request, as described in Rule 65G-4.0218, F.A.C., that is in imminent serious jeopardy and the IFS directly addresses the need for which the SAN has been requested. For IFS approved under this paragraph, the IFS must terminate:

1. upon denial of the SAN request; or

2. after approval of the SAN request and upon commencement of the waiver service(s) for which the SAN has been requested.

(3) In order for a client to receive a specific IFS service, the service must not be offered or available by any other resource. Other resources include, but are not limited to:

(a) Medicaid State Plan;

(b) the Waiver, except as provided for in subsection (3) of this Rule;

(c) natural supports;

(d) other agencies or programs; and

(e) other paid supports, such as Medicare or private insurance.

(4) The following services are allowable under IFS:

(a) adult day training, as defined in section 393.063, F.S.;

(b) employment and pre-vocational services;

(c) family care services;

(d) guardian advocate referrals, as described in section 393.12, F.S.;

(e) medical and dental services, which include but are not limited to nursing services, consumable medical supplies, durable medical equipment, medical evaluations, and dental services;

(f) parent training;

(g) personal care services, as defined in section 393.063, F.S.;

(h) recreation;

(i) residential facility services;

(j) respite services, as defined in section 393.063, F.S.;

(k) social services;

(l) specialized therapies;

(m) supporting living services;

(n) transportation; and

(o) other habilitative and rehabilitative services.

(5) non-allowable IFS services include but are not limited to the following:

- (a) home repairs;
- (b) installation or maintenance of spas or swimming pools;
- (c) constructing, erecting, or maintaining fences;
- (d) restraint devices;
- (e) satellite or cable television services or the purchase of a television;
- (f) vacation travel or accommodations;
- (g) aesthetic home improvements;
- (h) contractor services;
- (i) any portion of the principal or interest of a mortgage payment;
- (j) property taxes;
- (k) premiums for life, auto, medical/health, renter's, or homeowner's insurance;
- (l) loans, debts, or credit card payments;
- (m) personal spending funds or savings accounts;
- (n) alcohol or nicotine products or supplies;
- (o) alimony payments, child support payments, or any payments that are not for the direct benefit of the client;
- (p) purchase or replacement of major appliances such as refrigerators, stoves, dishwasher, or washer/dryer;
- (q) general repair and maintenance of property, such as repair of major appliances and heating, ventilation, and air conditioning systems;
- (r) computing devices, such as computers and tablet personal computers;
- (s) telephones for persons in the family home or a licensed facility;
- (t) second telephone line in person's own home;
- (u) court costs, lawyer fees, traffic tickets, or fines;
- (v) recreational items or expenses related to events and activities that a client attends that do not address an assessed need of the client;
- (w) capital improvements to property;
- (x) fees related to legal guardianship and legal guardianship reports;
- (y) supporting or subsidizing any other person living in the client's household; and
- (z) covering or replacing supports or services that are allowable under the Medicaid State Plan, the Waiver, or any other governmental program after the client has been determined eligible for the Medicaid State Plan, the Waiver, or other governmental program.

(6) This Rule shall be reviewed, and if necessary, renewed through the rulemaking process five years from the effective date.

Rulemaking Authority 393.065, 393.066(8), 393.0663, 393.501(1), F.S. Law Implemented 393.063, 393.065, 393.066, 393.0663, F.S. History—New 8-28-16; Amended _____.

65G-13.004 In-Home Subsidy Procedure

(1) A request for an in-home subsidy must be made by submitting a complete and accurate Individual Financial Profile, Form 65G-13.004 A, effective _____, adopted and incorporated herein, which may be found at <http://apdcares.org/customers/supported-living/docs/Individual%20Financial%20Profile.pdf> and _____, with the required supporting documentation, by either:

- (a) for a client enrolled on the Waiver, the client's support coordinator; or
- (b) for a client not enrolled on the Waiver, the client's supported living coach, if one is assigned, otherwise the client or the client's legal representative.

(2) A request to renew a monthly in-home subsidy shall meet the requirements of subsection (1) of this Rule and be submitted to the Agency by the earliest of the following:

- (a) 30 calendar days prior to the end of the approval period designated in the Agency's notice approving the monthly in-home subsidy;
- (b) 30 calendar days prior to the new fiscal year, or May 1 of each year; or
- (c) 30 calendar days before the end of a lease.

(3) If a client is assigned a supported living coach, the supported living coach shall comply with all the requirements described in the iBudget Handbook. The assigned supported living coach shall also:

(a) assist the client and/or legal representative in drafting, gathering documentation for, and timely submitting the client's Individual Financial Profile;

(b) assist the client in obtaining additional funding sources and document all such efforts in the request for the in-home subsidy. Analysis of other funding sources for the client, may include, but is not limited to:

1. seeking employment;
2. obtaining potential roommates to share costs with the client;
3. seeking any subsidized housing options for the client;
4. applying for supplemental nutrition assistance program ("SNAP"); and
5. seeking any other resources available to the client;

(c) if the client is enrolled on the Waiver, coordinating with the client's support coordinator in completing the client's Individual Financial Profile; and

(d) if the client is enrolled on the Waiver, sending 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.

(4) If the client enrolled on the Waiver is not assigned a supported living coach, then the client's support coordinator shall perform the role of the supported living coach under this chapter.

(5) If the client is enrolled on the Waiver, then 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 7 calendar days of receipt.

(6) Within 30 calendar days of receipt of a request for an in-home subsidy, the Agency will approve, partially approve, deny, terminate, reduce, or request additional documentation to supplement the request.

(a) If additional documentation is requested, the deadline for the Agency's response shall be extended to 60 calendar days following the receipt of the original request.

1. If the Agency requests additional documentation from the client, the client shall either:

a. provide the requested documentation within 10 calendar days of the date of the written notice; or

b. notify the Agency in writing that the client wishes the Agency to render its decision based upon the documentation provided with the initial request.

2. If the client fails to timely respond to the Agency's notice requesting additional documentation, the Agency will deny, terminate, reduce, or partially approve the request based on the documentation available.

(b) The Agency will issue a notice of its determination to the client, and if applicable, the client's legal representative.

1. Should a request for in-home subsidy be approved or partially approved, the notice will indicate amount, the period, and the specifically approved use(s) of such funds.

2. In-home subsidy funds shall be used to purchase the less costly version of the items listed in the notice.

3. Anytime an in-home subsidy is denied, partially approved, reduced, or terminated, the client shall have the right to request an administrative hearing pursuant to sections 393.125(1)(b), 120.569 and 120.57, F.S., within 30 calendar days of receipt of notification.

(7) The Agency shall deny an in-home subsidy request if the client, his or her support coordinator or, if applicable, supported living coach, does not provide an accurate and up-to-date Individual Financial Profile to substantiate the request.

(8) If an in-home subsidy is approved, the client shall provide a copy of the signed lease to his or her support coordinator. The support coordinator shall place the copy of the signed lease in the client's central record.

(9) A client who requests an in-home subsidy from the Agency shall 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 without Agency approval.

(10) The Agency will deny payment for an in-home subsidy requested by a client or legal representative who did not request prior authorization. In limited circumstances, an exception may be made on a case-by-case basis by the Agency's regional office to:

(a) correct an administrative error; or

(b) consider a health and safety risk or emergency.

(11) This Rule shall be reviewed, and if necessary, renewed through the rulemaking process five years from the effective date.

Rulemaking Authority 393.066, 393.0663, 393.0695, 393.501, F.S. Law Implemented, 393.063, 393.066, 393.0663, 393.0695, F.S. History–New _____.

65G-13.005 In-Home Subsidy Criteria

(1) All in-home subsidy funding is limited to basic living necessities that enable a client, in supported living, to live in his or her own home.

(2) In addition to the other requirements of this section, to be eligible for an in-home subsidy, a client must establish:

(a) he or she is eighteen years of age or older;

(b) he or she either:

1. requires the assistance of an in-home subsidy to move into one's own home; or

2. is unable to remain in his or her own home without an in-home subsidy;

(c) that living in his or her own home:

1. is in the client's best interest;

2. does not jeopardize the health, safety, or welfare of themselves or others; and

3. is more cost-effective than other options;

(d) for a client who leases their own home, a current written lease, signed by the client and landlord that is not prohibited.

1. Prohibited leases for in-home subsidy purposes include:

a. A month-to-month lease unless the client's circumstances meet any of the criteria listed in (I)-(III) of this paragraph and may not be used for more than three consecutive months per fiscal year.

I. All available housing options that meet a client's identified needs require a month-to-month lease. For purposes of this paragraph, "available housing options" means the options that are reasonable relative to the client's financial means, as identified in the Individual Financial Profile;

II. Alternative living arrangements that offer long-term leases, such as annual leases, cannot reasonably meet the client's identified needs as described in his or her support plan; or

III. The client's health, safety, and welfare require he or she sign a month-to-month lease. The client may request an extension to the three-month period if the client's health, safety, and welfare are at risk.

b. Any fixed term that is less than one month.

(3) In-home subsidies are funds of last resort and will only be granted when all other available resources are exhausted, including those described in subsection 65G-13.003(3), F.A.C. The client shall utilize all resources or options, other than moving into the family home, to reduce the cost of living, including the requirements in subsections (a)-(e) below, before an in-home subsidy may be authorized.

(a) A client requesting an in-home subsidy for rental assistance shall show proof that he or she has applied for and been denied or is on the waiting list 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 other low-income cellular phone assistance programs. In-home subsidy funds may be used to pay the cost of cellular phone service instead of a landline telephone service only if it would not cost more than a landline telephone service. A cost comparison of cellular phone services and landline telephone service shall be included with the client's Individual Financial Profile.

(c) A client who intends to use the in-home subsidy funds for food shall show proof that he or she has been approved or denied supplemental nutrition assistance program ("SNAP") benefits within the last twelve (12) months.

(d) A client is expected to live within his or her means, which may include living with a roommate or roommates.

(e) Costs related to the in-home subsidy request shall be reasonable for the geographical area where the client lives.

(4) An in-home subsidy will not be approved if the need for which it is being requested is the result of the mismanagement of client funds by either the client or the client's legal representative.

(5) The Agency will not reimburse start-up expenses that the client incurred prior to receiving approval for a start-up in-home subsidy.

(6) Unavailability of funds is sufficient reason to deny an in-home subsidy.

(7) Amount of in-home subsidy. The Agency determines an eligible client's in-home subsidy amount by calculating an individual determination of need, based on the client's Individual Financial Profile and supporting documentation.

(8) This Rule shall be reviewed, and if necessary, renewed through the rulemaking process five years from the effective date.

Rulemaking Authority 393.066, 393.0663, 393.0695, 393.501, F.S. Law Implemented, 393.063, 393.066, 393.0663, 393.0695, F.S. History—New _____.

65G-13.006 In-Home Subsidy Restrictions

(1) In-home subsidy funds are limited to an individual determination of need and shall not be used to purchase restricted items, which 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;

(i) insurance premium(s), which include but are not limited to life, auto, medical/health, renter's, and homeowner's;

(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, alimony payments, child support payments, or any payments that are not for the direct benefit of the client;

(n) major appliances, which includes but is not limited to an air conditioner, heater, refrigerator, stove, dishwasher, or washer/dryer;

(o) computer, tablet personal computer, or cell phone;

(p) second telephone line;

(q) court costs, lawyer fees, traffic tickets, or fines;

(r) recreational items or expenses related to events and activities that a client attends;

(s) reimbursement of money owed for cost of expenses related to events and activities that a client attends;

(t) capital improvements to property;

(u) general repair and maintenance of property, which includes but is not limited to repair and maintenance of major appliances;

(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) paying a contractor for the provision of services and supports to a client who is the recipient of the in-home subsidy;

(z) internet;

(aa) transportation;

(bb) services and supports otherwise covered under rules 65G-13.002 and 13.003, F.A.C.; and

(cc) 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.

(2) This Rule shall be reviewed, and if necessary, renewed through the rulemaking process five years from the effective date.

Rulemaking Authority 393.066, 393.0663, 393.0695, 393.501, F.S. Law Implemented, 393.063, 393.066, 393.0663, 393.0695, F.S. History–New _____.

65G-13.007 In-Home Subsidy Review

(1) The Agency can review any in-home subsidy for compliance with this chapter and Florida statutes.

(2) An in-home subsidy shall be used in a manner that is approved by the Agency, as described in the approval notice issued by the Agency. Should in-home subsidy funds not be used in a manner approved by the Agency, the Agency shall take action to ensure that the use of in-home subsidy funds complies with this chapter and Florida Statutes, including:

(a) terminating or decreasing the amount of the subsidy; or

(b) disbursing direct payment to the vendor (such as a landlord or utility company) instead of disbursing an in-home subsidy payment to the client or the legal representative.

(3) An in-home subsidy may be reduced or terminated if funds are not available.

(4) Upon request by the Agency, the recipient of any in-home subsidy shall provide an updated Individual Financial Profile within 10 calendar days of the Agency's request. Failure to submit an updated and accurate Individual Financial Profile may result in denial, partial approval, reduction, or termination of the in-home subsidy.

(5) Verification of start-up and monthly in-home subsidy expenditures. If a client has a supported living coach, the supported living coach shall verify that the in-home subsidy funds have been spent appropriately, as described in the approval notice sent by the Agency. If a client does not have a supported living coach but has support coordinator, then the client's support coordinator shall perform this verification.

(a) This verification includes reviewing receipts to verify that designated items were purchased as approved by the Agency on at least a quarterly basis.

(b) The provider conducting the verification shall notify the Agency in writing upon discovering any use of in-home subsidy funds that were not approved by the Agency. Additionally, the provider shall take appropriate action to address any unapproved use of such funds, which may include:

1. providing additional supports to the client who is the recipient of the in-home subsidy, such as training and advising with money management; and/or

2. assisting in locating someone to provide financial management for the client who is the recipient of the in-home subsidy.

(c) This verification shall be documented by the provider conducting the verification in the client's progress/case notes within iConnect.

(6) Review of the monthly in-home subsidy. If a client has a supported living coach, the 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. If a client does not have a supported living coach but has support coordinator, then the client's support coordinator shall perform this reassessment.

(7) A client shall submit a new Individual Financial Profile to the regional office when circumstances affecting the client's need for an in-home subsidy change substantially. Circumstances that substantially affect a client's need for an in-home subsidy, which may include:

(a) a change in Social Security payments;

(b) the client receives any back payment for Social Security income or other benefits;

(c) a change in cost-sharing arrangements between roommates or a loss of roommate(s);

(d) a change in employment status;

(e) a change in availability of subsidized housing;

(f) a change in the client's income;

(g) a 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; and/or

(k) A change in expenditures that results in financial hardship not attributable to mismanagement of the client's funds.

(8) If a family member, 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 inconsistent with the notice of approval sent by the Agency, the Agency will make appropriate referrals to the State Attorney, law enforcement, or other appropriate authorities.

(9) This Rule shall be reviewed, and if necessary, renewed through the rulemaking process five years from the effective date.

Rulemaking Authority 393.066, 393.0663, 393.0695, 393.501, F.S. Law Implemented, 393.063 393.066, 393.0663, 393.0695, F.S. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lorena Fulcher

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Barbara Palmer

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: 08/24/2022

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: 01/07/2022