

## Notice of Development of Rulemaking

### DEPARTMENT OF CHILDREN AND FAMILIES

#### Agency for Persons with Disabilities

#### RULE NOS.:RULE TITLES:

- 65G-5.001 Definitions.
- 65G-5.002 Eligibility for Services.
- 65G-5.003 Planning for Supported Living Services.
- 65G-5.004 Selection of Housing.
- 65G-5.005 Selection of Providers by Participants.
- 65G-5.006 Ongoing Monitoring by Support Coordinator.
- 65G-5.007 Individual Survey Activities.
- 65G-5.008 Certification of Providers.
- 65G-5.009 Annual Survey and Renewal of Certification.
- 65G-5.010 Suspension of Provider Certification.
- 65G-5.011 Termination of Provider Certification.
- 65G-5.012 Documentation of Services.
- 65G-5.013 Rates and Payments.

**PURPOSE AND EFFECT:** The purpose and effect of the rule amendments is to clarify terminology, update rule language to comply with statutory requirements including addressing statutory amendments regarding the community supported living arrangement program and provider training requirements.

**SUBJECT AREA TO BE ADDRESSED:** The subject area to be addressed in the rule amendments includes updated terminology, changes to statutory requirements, the community supported living arrangement program, and provider training requirements.

**RULEMAKING AUTHORITY:** 393.501(1), 393.066(8), FS.

**LAW IMPLEMENTED:** 393.066, 393.0661, FS.

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

**DATE AND TIME:** August 22, 2018, 1:00 p.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: Lisa Kuhlman at (850)922-9738 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:** Lisa Kuhlman, Agency for Persons with Disabilities, 4030 Esplanade Way, Tallahassee, Florida 32399-0950, (850)922-9738, Lisa.Kuhlman@apdcares.org

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:**

Substantial rewording of Rule 65G-5.001 follows. See Florida Administrative Code for present text.

65G-5.001 Definitions (Substantial Rewrite)

(1) “Annual Report” means a report of the supports and services received by an individual throughout the year, a description of the progress towards meeting individually determined goals, and any pertinent information about significant events that occurred in the individual’s life during the previous year.

(2) “Community Housing Standards” means the standards set forth in the Housing Survey form.

(3) “Family Home” means the primary residence occupied by the recipient and member(s) of the immediate family.

(4) “Functional Community Assessment” means an assessment designed to assist the supported living provider in becoming familiar with the individual and their capabilities and needs.

(5) “Housing Survey” means a survey utilized to ensure that an individual’s housing selection meets community

housing standards.

(6) “Immediate Family” means spouse, children, parents and siblings, including stepchildren, stepparents, stepsiblings and in-laws.

(7) “Individual” means an adult who has developmental disabilities, who is a client of the Agency as defined in Chapter 393, F.S., and who is receiving supported living services.

(8) “Individual Financial Profile” means a budget form that reflects monthly income and expenses of the individual.

(9) “Implementation Plan” means a plan developed by the supported living coach with direction from the individual. The implementation plan includes the names of the individual receiving services, support plan goals that the supported living coaching services will address, methods employed to assist the individual in meeting the support plan goals, and the system to be used for data collection and assessing the individual’s progress in achieving support plan goals.

(10) “Own Home” means a house, apartment, or comparable living space meeting community housing standards, which the individual chooses, own or rents, controls, and occupies as a primary place of residence that is not a family home.

(11) “Personal Supports” means services that provide assistance and training to the individual in activities of daily living, such as eating, bathing, dressing, personal hygiene, and preparation of meals. This service may also include assistance with heavy household chores to make the home safer and also include companionship, including non-medical care and supervision and access to community-based activities.

(12) Support Plan” means an individualized plan of supports and services designed to meet the needs of a recipient enrolled in the waiver. The support plan identifies the goals, preferences, and needs of the individual and authorizes the supports, resources and services necessary to meet those goals, preferences, and needs.

(13) “Support Coordinator” means a person who is designated by the Agency to assist individuals in identifying their desires, capacities, needs and resources; find and gain access to necessary supports and services; coordinate the delivery of supports and services; advocate on behalf of the individual, and provide other assistance and support as defined in Section 393.063, F.S. “

(14) “Supported Living Coaching” means a service that includes assistance with locating appropriate housing; assisting individuals with the acquisition, retention, or improvement of skills related to activities of daily living, household chores, meal preparation, shopping, personal finances, medical and dental appointments, and social and adaptive skills necessary to enable individuals to reside in their own home.

(15) “Supported Living Services” means the provision of supports necessary for an adult who has a developmental disability to establish, live in and maintain his or her own household in the community. For purposes of this rule, supported living services include supported living coaching and personal supports provided through state funds or through the iBudget Home and Community-Based Services Waiver program.

(16) “Quarterly Summary” means a written summary compiled by the supported living coach of the activities that took place during each quarter, including the individual’s progress toward achieving support plans goals. The third quarterly summary can be used as the annual report.

*Rulemaking Authority 393.501, 393.066(8), FS. Law Implemented 393.063(45), 393.066, 393.0661 FS. History–New 1-18-95, Formerly 10F-11.002, 65B-11.002.*

65G-5.002 Eligibility for Services.

(1) Individuals are eligible for supported living services funded by the Agency if they meet the following criteria:

(a) Individual is eighteen years of age or older;

(b) Individual has a developmental disability and is a client of the Agency;

(c) Individual desires to live in his or her own home in the community and is unable to live in the community without ongoing supports;

(d) Individual lives in his or her own home with no more than two other individuals with developmental disabilities; and

(e) Supported living services are authorized for funding by the Agency.

(2) Clients of the Agency who live in a family home are not eligible for supported living coaching service even

if the client is the sole owner or lessee of the family home.

~~(1) All persons eighteen years of age or older who have developmental disabilities, reside within the state of Florida and are clients of the Agency shall be eligible for supported living services.~~

~~(2) Individuals must be Medicaid recipients in order to receive supported living services through the CSLA Medicaid state plan option. Services shall not be provided simultaneously to an individual through CSLA and the Developmental Disabilities Home and Community-Based Services Waiver.~~

(3) Persons who are clients of the Agency and who wish to receive supported living services shall make a request for such services through their support coordinator.

(4) Persons who are not clients of the Agency must first make application for determination of eligibility for developmental disability services. They may concurrently request supported living services.

(5) Supported living services must be authorized by an individual's support plan. A preliminary determination of the individual's support requirements to reside in supported living shall be made as part of the individual support plan process.

(6) Individuals who choose to receive services in a supported living setting or who need to increase their services must request the services through their support coordinator. The support coordinator will follow current protocols for requesting services through the Agency.

*Rulemaking Authority 393.501, 393.066(8), FS. Law Implemented 393.063(45), 393.066, 393.0661 FS. History—New 1-18-95, Formerly 10F-11.003, 65B-5.003.*

#### 65G-5.003 Planning for Supported Living Services.

(1) An individual's desire and willingness to participate in supported living shall be considered as part of the support planning process, and supported living services shall be authorized by the support plan when requested by the individual or the individual's representative guardian. When planning for supported living services, the individual, individual representative, and support coordinator must consider whether funding is available in their approved annual budget and must ensure that services requested meet health and safety needs.

(2) The support plans of individuals in supported living are facilitated by the support coordinator and shall address the following with regard to supported living services:

(a) Frequency of supported living coaching services and specific areas of support required by the individual to live in his or her own home and participate in the local community;

(b) An explanation of the individual's need for the services;

(c) The person or agency responsible for providing the services;

(d) When services will be provided;

(e) The methodology that will be used to provide the services;

(f) How the individual can access supported living coaching services 24 hours a day for emergency assistance;

(g) How natural and generic supports available through family, friends, neighbors, and the community at large will be included in the support process;

(h) What supports are in place to meet the home and community safety needs of the individual;

(i) A financial profile that includes an accountable strategy for assisting the individual in money management, ~~when requested by the individual or the individual's guardian; and,~~ However, if the individual indicates that he or she does not wish to have a financial profile completed, then the support coordinator must document the individual's refusal. Refusal to provide the Financial Profile annually hinders the supported living coach's ability to assist the individual with his or her personal finances successfully. This could lead to the individual becoming Medicaid ineligible and losing Medicaid benefits; and

(j) The outcomes the individual wishes to achieve during the next year.

(3) Supported living services are authorized and provided in any of the following support areas based on functional assessment of the individual's capacities in the community and the individual's preferences.

(a) Housing procurement;

(b) Household maintenance and management;

(c) Safety and emergency procedures;

(d) 24-hour emergency assistance;

(e) Meal planning and preparation;

- (f) Shopping and consumer skills;
- (g) Clothing care;
- (h) Self-care, manners and sexuality;
- (i) Money management and banking;
- (j) Utilizing third party benefits;
- (k) Time management;
- (l) Recreation and leisure;
- (m) Mobility and travel skills;
- (n) Civic responsibilities;
- (o) Advocacy;
- (p) Interpersonal communication;
- (q) Facilitation of one-to-one relationships;
- (r) Support counseling;

(s) Administration of medication and supervised self-medication, pursuant to Chapter 65G-7, F.A.C. Self-medication;

- (t) Individual specific documentation;
- (u) Meetings with the individual present;
- (v) Quality assurance activities.

(4) The supported living coach shall complete the Functional Community Assessment, APD Form # effective \_\_\_\_\_, adopted and incorporated herein, which can be found at \_\_\_\_\_, prior to the individual's move into a supported living arrangement or within 45 days of service implementation for individuals already residing in supported living settings. If the individual does not have a supported living coach, the Functional Community Assessment will be completed by the support coordinator.

(5) The supported living coach shall complete an initial Housing Survey Form, APD Form # effective \_\_\_\_\_, adopted and incorporated herein, which can be found at \_\_\_\_\_, prior to an individual signing a lease. The supported living coach shall submit the Housing Survey to the support coordinator within 10 days of housing selection. The support coordinator must approve the Housing Survey. If the individual does not have a supported living coach, the support coordinator shall complete the Housing Survey.

(6) The supported living coach shall complete the Health and Safety Checklist, incorporated by reference into this rule and submit it to the support coordinator.

~~(7)~~(4) The information required by Rule 65G-5.004, F.A.C., shall be identified on the individual support plan form or included in a separate implementation plan which is made part of the individual support plan by reference.

~~(8)~~(5) The supported living coaching provider and the individual have authority to adjust the areas and level of coaching support in response to emerging needs and life changes of the individual. All such adjustments must be reviewed with the support coordinator at the time of the quarterly visit provided for in Rule 65G-5.006, F.A.C.

~~(9)~~(6) Adjustments to the areas or levels of coaching support that affect the provider's rate agreement must be authorized prior to implementation by an update to the individual support plan. The support coordinator is responsible for updating the support plan and obtaining regional area office review and approval of increased funding.

~~(10)~~(7) Within 30 calendar At least ten working days prior to the annual of the provider's receipt of the support plan review, the supported living coaching provider shall develop the implementation plan. On a quarterly basis, the supported living coach must develop a written report that reflects progress towards goals contained in the implementation plan and revisions made to the plan. send the support coordinator a written summary regarding the supports and services provided during the past year and recommendations for the coming year.

*Rulemaking Authority 393.501, 393.066(8), FS. Law Implemented 393.063(45), 393.066, 393.0661 FS. History--New 1-18-95, Formerly 10F-11.006, 65B-11.006.*

#### 65G-5.004 Selection of Housing.

(1) The individual shall select a home available for lease or sale to any member of the community based on the individual's own choice and personal financial resources with assistance from the supported living coaching provider as needed.

- (2) The following criteria identify an eligible supported living setting:
- (a) ~~The name of the individual appears on the~~ has a lease or mortgage other legally enforceable agreement, either singularly, with a roommate, or with a guarantor or a mortgage agreement;
  - (b) The home is integrated into and supports full access to the greater community;
  - (c) The home is selected by the individual from available options;
  - (d) The individual has privacy in his or her home, including lockable doors, choice of rooms, and freedom to furnish or decorate; and
  - ~~(e)~~ (b) Neither the supported living coach, personal supports provider, nor the immediate family of the supported living coach provider shall serve as landlord or have any interest in the ownership of the housing unit; and,
- (3) As part of the housing search, the supported living coaching provider shall assist the individual to complete a survey of the housing being considered. This survey shall be based on the Housing and Urban Development housing quality standards found in 24 CFR Part 982 24 C.F.R. §887.251. The supported living coaching provider shall also assist the individual in a quarterly update of the housing survey based upon the same standards as the initial survey.
- (4) The supported living coaching provider shall forward a copy of the completed survey for the housing that was selected by the individual to the individual's support coordinator within ten (10) working days of the selection, and shall make a copy of the quarterly housing survey update available to the support coordinator at the time of the support coordinator's quarterly home visit provided for in Rule 65G-5.006, F.A.C. However, if the individual will require a start-up subsidy, the start-up subsidy must be approved by the Regional Office before the lease is signed or any deposits are made.
- (5) If the housing selected by the individual does not meet the housing quality standards in the Housing Survey, identified in Rule 65G-5.004, F.A.C., a waiver ~~may~~ shall be granted by the Regional Operations Manager Area Administrator when the selection is based on the individual's choice and the standard waived does not compromise the client's health and safety.
- (6) Renting or subleasing a room in a home or a hotel/motel with or without a lease does not meet the eligibility criteria for supported living.
- (7) Supported living arrangements do not include the individual's parents, stepparents, guardian, guardian advocate, or a sibling without a developmental disability living in the same residence.
- (8) An exception can be requested by the individual to the APD Regional office to allow supported living services to be provided on the property of a family member, in a separate structure, with a separate lease as long as it meets the community housing standards.

*Rulemaking Authority 393.501, 393.066(8), FS. Law Implemented 393.063(45), 393.066, 393.0661 FS. History--New 1-18-95, Formerly 10F-11.005, Amended 10-28-03, Formerly 65B-11.005.*

#### 65G-5.005 Selection of Providers by Participants.

(1) Individuals may choose from among the available providers within the area. Every effort shall be made to ensure that the individual receives services from the provider of his or her choice. ~~Eligible individuals who wish to receive services through the Medicaid CSLA state plan option must choose from among the available CSLA providers.~~

(2) The individual's support coordinator shall provide information to the individual or legal guardian if applicable, verbally and in writing regarding concerning the philosophy and scope of services available from each supported living services as set forth in these rules provider and shall assist the individual as needed in the screening and selection of a provider. Verbal information must be documented in the support coordinator's case notes.

(3) Supported living coaching services must be provided on a one individual to one provider ratio.

(4) When individuals receive personal supports, life skills development, or both in addition to supported living coaching services, the providers must work together to avoid duplication of activities with coordination from the support coordinator.

(5) Supported living coaching services should be separate and not duplicate services performed by the personal supports provider. If a supported living coach is providing one or more additional services to an individual, documentation must clearly reflect the services being provided and billed during a given time.

(6) The supported living coach shall not live in the individual's home.

(7) The supported living coach must render services at the time and place mutually agreed upon by the individual and the provider. The supported living coach must have an on-call system in place that allows the individual access to services for emergency assistance 24 hours per day, seven days per week. The supported living coach must specify a backup supported living coach to provide services in the event that the initial supported living coach is unavailable. Telephone access to the provider or backup provider must be available without toll charges to the individual.

*Rulemaking Authority 393.501, 393.066(8), FS. Law Implemented 393.063(45), 393.066, 393.0661 FS. History—New 1-18-95, Formerly 10F-11.004, 65B-11.004.*

#### 65G-5.006 Ongoing Monitoring by Support Coordinator.

(1) The individual's support coordinator shall have at least monthly ~~face-to-face visits~~ ~~telephone contact~~ with the individual. ~~One face-to-face visit shall occur in the individual's home at least once every three months, to monitor the individual's health and well-being. This call may be initiated by the support coordinator or the individual.~~

(2) ~~The support coordinator shall conduct an additional billable activity on behalf of the individual each month. When telephone contact is not possible, a face to face visit shall be made.~~

(3) The individual's support coordinator shall conduct a quarterly ~~meeting home visit~~ to ensure that supported living services are being carried out in accordance with the support plan. This visit shall be scheduled at a mutually convenient time and shall not be unannounced. ~~This quarterly meeting is considered one of the face-to-face contacts. The supported living coach shall also attend unless the individual requests otherwise.~~

(4) The support coordinator is responsible for scheduling the quarterly meeting with the individual in the individual's home. Unless specifically declined by the individual, the supported living coach and personal supports provider should be invited. During the meeting, the following activities will occur:

(a) The support coordinator will review the individual's progress toward achieving support plan goals and determine if services are being provided in a satisfactory manner.

(b) The support coordinator will review the APD Health and Safety Checklist and the Housing Survey and determine if there is a need for follow-up with the resolved issues or if changes are needed.

(c) For individuals who are receiving assistance with financial management from the supported living provider, the support coordinator will review the bank statements, checkbook, and other public benefits, such as Social Security benefits and health care coverage, including Florida Medicaid, to determine continued eligibility at the time of the quarterly meeting.

(d) Complete the Supported Living Quarterly Checklist for Supported Living Quarterly Face-to-Face Visits, APD Form # effective \_\_\_\_\_, which can be found at \_\_\_\_\_, and is incorporated into this rule by reference.

(5) For individuals who wish to move into a supported living arrangement, supported living coaching services can be approved for a period not to exceed 90 days to assist the individual in finding a home. It is the responsibility of the support coordinator to review activities occurring during this time period to ensure that the supported living goal can be achieved during this timeframe. If the support coordinator determines that moving into supported living cannot be achieved before the 90-day timeframe expires, the support coordinator shall provide other options for the individual regarding alternate services that can be pursued.

(6) For individuals who wish to move to their own homes but do not receive or do not need supported living coaching services, the support coordinator is responsible for coordinating and monitoring services provided by the personal supports provider to ensure that the individual is meeting their support plan goals.

(7) If a medication assistance provider, as defined in Rule 65G-7.001, F.A.C., supervises the self-administration of medication or administers medication to an individual, the supported living coach is responsible for assuring that there is a current medication administration validation certificate as required by Chapter 65G-7 F.A.C., and that it is updated annually. In the situation where there is no supported living coach, this responsibility falls to the support coordinator.

~~(4) In addition to reviewing supported living services, the support coordinator shall review the updated housing survey and the individual's need for a financial subsidy or adjustment of current subsidy at the time of the quarterly home visit. If the supported living coaching provider is acting as fiscal agent for the individual, bank statements and~~

~~any other financial records shall be reviewed by the support coordinator at the time of the quarterly home visit.~~  
*Rulemaking Authority 393.501, 393.066(8), FS. Law Implemented ~~393.063(45)~~, 393.066, 393.0661 FS. History–New 1-18-95, Formerly 10F-11.009, 65B-11.009.*

#### 65G-5.007 Individual Survey Activities.

*Rulemaking Authority 393.501(1) FS. Law Implemented 393.063(45), 393.066 FS. History–New 1-18-95, Formerly 10F-11.008, 65B-5.008, Repealed.*

Substantial rewording of Rule 65G-5.008 follows. See Florida Administrative Code for present text.

#### 65G-5.008 Qualifications ~~Certification~~ of Providers

(1) Providers of supported living coaching services must meet one of the following requirements:

(a) Have a bachelor’s degree from an accredited college or university with a major in education, rehabilitative science, business or a related degree.

(b) Have an associate degree or two years of college from an accredited college or university and have two years of documented direct experience with individuals with developmental disabilities.

(c) Have one year of college from an accredited college or university and three years of documented direct experience in working with individuals with developmental disabilities; or

(d) Four years of direct professional experience in working with individuals with developmental disabilities may substitute for college on a year for year basis. The provider must hold a valid high school or GED diploma.

(2) An individual who wishes to become a supported living coach who is not already an iBudget Waiver provider must comply with the requirements of Rule 65G-4.0215, F.A.C. prior to being approved by the Agency to provide supported living coaching services. An individual who is an approved iBudget Waiver provider may apply to provide supported living coaching services by complying with Rule 65G-4.0215(5)(b), F.A.C.

(3) Providers shall comply with the pre-service and in-service training as set forth in the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook as adopted in Rule 59G-13.070, F.A.C.

*Specific Authority 393.501, 393.066(8), FS. Law Implemented ~~393.063(45)~~, 393.066, 393.0661 FS. History–New 1-18-95, Formerly 10F-11.008, 65B-5.008.*

#### 65G-5.009 Annual Survey and Renewal of Certification.

*Rulemaking Authority 393.510(1) FS. Law Implemented 393.065(45), 393.066 FS. History–New 1-18-95, Formerly 10F-11.011, 65B-11.011, Repealed.*

#### 65G-5.010 Suspension of Provider Certification.

*Rulemaking Authority 393.501(1) FS. Law Implemented 393.063(45), 393.066, 393.0655 FS. History–New 1-18-95, Formerly 10F-11.012, 65B-11.012, Repealed.*

#### 65G-5.011 Termination of Provider Certification.

*Rulemaking Authority 393.501(1) FS. Law Implemented 393.063(45), 393.066, 393.0655 FS. History–New 1-18-95, Formerly 10F-11.013, 65B-11.013, Repealed.*

#### 65G-5.012 Documentation of Services.

(1) The provider shall maintain documentation that the supports and services for which billings or invoices are submitted have been provided. ~~For providers of supported living coaching and personal assistance this shall include written documentation of the dates, times and summary of support provided during contact with the individual.~~

(2) The supported living coach must retain the following documentation related to service provision:

(a) Daily Progress Notes for the dates of service billed, which includes documentation of activities, supports, and contacts with the individual, other providers, and agencies with dates and times, and a summary of support provided during the contact, any follow-up needed and progress towards achievement of support plan goals.

(b) Individual implementation plan must be completed within 30 days of receipt of the individual’s support plan or subsequent updates to the support plan and annually thereafter. A copy of the implementation plan, signed by the individuals or their representative must be furnished to the individuals, their representative, and to the Support

coordinator at the end of the 30-day period. The individual implementation plan must comply with the requirements set forth in the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, as adopted in Rule 59G-13.070, F.A.C.

(c) Quarterly summary of each quarter in the support plan year. The third quarterly summary also serves as the annual report and must include a summary of the previous quarters.

(d) The Functional Community Assessment must be included in the file and updated annually.

(e) The Financial Profile must be included in the file and updated annually. However, if the individual indicates that he or she does not wish to have a financial profile completed, then the supported living coach must document the individual's refusal. Refusal to provide the Financial Profile annually hinders the supported living coach's ability to assist the individual with his or her personal finances successfully. This could lead to the individual becoming Medicaid ineligible and losing Medicaid benefits.

(f) Up to date information regarding the demographic, health, medical, and emergency contact information for the individual and their support plan. If the support plan was not provided by the support coordinator, there must be documentation of attempts to obtain a copy.

(g) If the provider plans to transport the individual in the provider's private vehicle, the provider must show proof of a valid:

1. Driver's license;
2. Vehicle registration;
3. Automobile insurance.

(3) If there is no supported living coach, the support coordinator must retain the following documentation related to service provision:

(a) The Functional Community Assessment must be included in the file and updated annually.

(b) The Financial Profile must be included in the file and updated annually. However, if the individual indicates that he or she does not wish to have a financial profile completed, then the support coordinator must document the individual's refusal. Refusal to provide the Financial Profile annually hinders the supported living coach's ability to assist the individual with his or her personal finances successfully. This could lead to the individual becoming Medicaid ineligible and losing Medicaid benefits.

*Rulemaking Authority 393.501, 393.066(8), FS. Law Implemented ~~393.063(45)~~, 393.066, 393.0661 FS. History—New 1-18-95, Formerly 10F-11.014, 65B-11.014.*

#### 65G-5.013 Rates and Payments.

*Rulemaking Authority 393.501(1) FS. Law Implemented 393.063(45), 393.066 FS. History—New 1-18-95, Formerly 10F-11.015, 65B-11.015, Repealed.*