

## Notice of Development of Rulemaking

### DEPARTMENT OF CHILDREN AND FAMILIES

#### Agency for Persons with Disabilities

RULE NOS.:      RULE TITLES:

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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, including requests for in-home subsidies, for which rule making is mandatory pursuant to section 393.0695, Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: The rule language addresses the procedures used by the Agency to receive, review, and respond to requests for IFS funding, including requests for in-home subsidies. The language also describes the criteria used by the Agency to determine whether to approve a request for IFS funding.

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

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

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

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

#### **65G-13.001 Definitions.**

(1) “Applicant” means an individual who has not yet been determined eligible for Agency for Persons with Disabilities (“Agency”) services pursuant to section 393.065(1), Florida Statutes (“F.S.”), but who is applying to receive Agency services.

(2) “Act of nature” means a natural disaster such as a hurricane, flood, tornado, earthquake, or insect infestation.

(3) “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 or applicant. Each client or applicant’s central record is maintained by his or her support coordinator and contains the client or applicant’s updated demographic information; contact information for the client or applicant’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.

(4) “Client” means an individual served by the Agency who meets eligibility criteria as defined in Chapter 393, F.S., and Rules 65G-4.014 through 4.017, Florida Administrative Code (F.A.C.), regardless of whether or not one is on the Waiting List or Waiver.

(5) “Family Care Services” means medically necessary services provided to clients who live in the family home that are necessary to avoid institutionalization or more costly out-of-home residential placement.

(6) “Family Home” means the primary residence occupied by the client and the client’s family member(s).

(7) “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.

(8) “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.

(9) “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.

(10) “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.

(11) “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.

(12) “iConnect” means the Agency’s designated data management system as described in section 393.066(2), F.S., chapter 65G-12, F.A.C., and the Florida Medicaid Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, which is incorporated by reference in rule 59G-13.070, F.A.C.

(13) “Imminent risk” means a situation in which a client or other individual(s) are likely to experience or sustain substantial harm or the client would require institutionalization within the immediate future.

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

(15) “Individual Financial Profile” 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.

(16) “In-Home Subsidy” 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. The subsidy includes the following:

(a) “Emergency In-Home Subsidy” means an In-Home Subsidy:

1. that the Agency may approve for a period of up to 90 days; and

2. which may occur when the financial situation of the client suddenly changes and that client risks losing his or her housing due to the change.

(b) “Ongoing In-Home Subsidy” means financial assistance the Agency may provide on a monthly basis to a client who has demonstrated an ongoing need for financial assistance in order to live in his or her own home. Ongoing In-Home Subsidies are also known as Recurring In-Home Subsidies and can only be approved for a time limited basis not to exceed the end of the current fiscal year.

(c) “Start-Up In-Home Subsidy” means financial assistance the Agency may provide to a client who is moving to his or her own home, 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.

(d) “Temporary In-Home Subsidy” means financial assistance the Agency may provide to a client who loses a roommate who shared expenses with the client until a new roommate is selected to share costs.

(17) “Legal representative” means parent(s) of an unemancipated child whose parental rights remain intact, someone acting through a Power of Attorney or Durable Power of Attorney, a health care surrogate, a medical proxy under chapter 765, F.S., or anyone appointed by a Florida court as a guardian or guardian advocate under chapter 393 or 744, F.S.

(18) “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.

(19) “Medical/dental services” means the same as defined in section 393.063(26), F.S.

(20) “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.

(21) "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 community housing standards identified on the Housing Survey Form identified in Rule 59G-13.070, F.A.C.; and

(c) Is not a family home as defined in section (6) of this rule.

(22) "Parent training" means training 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.

(23) "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.

(24) "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, and to review the Health and Safety Checklist and Housing Survey in order to identify any needed changes or follow up. The Health and Safety Checklist and Housing Survey forms are found in the Florida Medicaid Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook, as adopted in Rule 59G-13.070, F.A.C.

(25) "Recreation" means services that utilize recreation and other leisure-based activities to address the assessed needs of clients as a means to increase the client's independence in the home and integration into the community. These services may be provided in the family home, the client's own home, or in community settings.

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

(27) "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.

(28) "Residential facility services" means room and board, personal care services, supervision, training activities, and other habilitative and rehabilitative services provided to persons with developmental disabilities in a residential facility as defined in sections 393.063(32) and (33), F.S.

(29) "Respite services" means appropriate, 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.

(30) "Roommate" means an individual who resides with a client and pays a share of the housing's expenses.

(31) "Significant" means of considerable magnitude or considerable effect.

(32) "Social services" mean services provided by a support coordinator.

(33) "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, and physical management services.

(34) "Support coordinator" means an employee of a qualified organization, designated by the agency as provided in s. 393.0663, F.S., to assist individuals and families in identifying their capacities, needs, and resources, as well as finding and gaining access to necessary supports and services; coordinating the delivery of supports and services; advocating on behalf of the individual and family; maintaining relevant records; and monitoring and evaluating the delivery of supports and services to determine the extent to which they meet the needs and expectations identified by the individual, family, and others who participated in the development of the support plan. For clients enrolled in the CDC+ Program, this term includes the CDC+ Consultant.

(35) "Supported living coach" means a care 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 393.63(43), F.S., which meets the requirements described in chapter 65G-5, F.A.C. These services include supported living coaching and personal supports.

(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 its available budgeted funds for IFS expenditures. The Agency shall be the final authority as to the unavailability of funds.

(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.

Rulemaking Authority ~~393.066(8)~~, 393.0663, 393.0695, 393.501(4), 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) Determination Procedure-**

(1) Requesting IFS.

(a) A request for IFS can be made orally or in writing to the Agency’s Regional Office by an applicant, client, or his or her legal representative, or support coordinator. IFS can also be initiated by the Agency. To request IFS, the applicant, client, his or her legal representative, or support coordinator shall provide the following:

1. The applicant or client’s name;
2. The region where the applicant or client resides;
3. The applicant or client’s legal representative and support coordinator’s names, if applicable;
4. A description of the specific client need to be addressed by the requested IFS service(s);
5. Documentation that demonstrates the specific client need to be addressed by the requested IFS service(s); and
6. An explanation of the efforts taken to address those needs through other funding sources and natural supports.

(b) Within 30 calendar days of receipt of a request for IFS, the Agency will approve, partially approve, deny, or request additional documentation or information 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.

1. If the Agency requests additional documentation or information:

a. the applicant or client shall 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 applicant or client wishes the Agency to render its decision based upon the documentation and information provided with the initial request.

2. If the applicant or client fails to timely respond to the Agency’s notice requesting additional documentation or information, the Agency will deny or partially approve the request for IFS based on the information available.

(c) 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 applicant or client with exploring other alternative funding options for which the individual may be eligible to receive. The individual shall utilize all available Medicaid State Plan services, school-based services, private insurance, natural supports, and any other resources that may be available to the individual before the Agency approves IFS. If additional alternative funding or services are available, the Agency shall deny the request for IFS or partially approve IFS to the extent not covered from the alternative funding or services.

(2) Approval for IFS.

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

(b) Service authorizations will not be approved retroactively, except:

1. when obtaining prior authorization is impossible due to extenuating circumstances; or
2. without IFS, the client or others would be at imminent risk.

(c) The Regional Office shall only approve IFS for applicants or clients who meet the IFS eligibility criteria described in Rule 65G-13.003, F.A.C. If those criteria are met and the Agency has available funds, the Regional Office will provide written notice of IFS to the client or client's legal representative within 30 calendar days of the receipt of the request or within 60 calendar days if additional documentation is needed as described in subsection (1)(b) of this rule.

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

1. Requested and was denied the same goods or services provided under the Medicaid State Plan or the Waiver;  
or

2. Is in the process of disputing a denial or termination pertaining to the same goods or services under the Medicaid State Plan or the Waiver.

(3) Denial or Termination of IFS.

(a) If the Regional Office concludes that the applicant or client does not meet the IFS criteria described in Rule 65G-13.003, F.A.C., the Regional Office shall deny the IFS request and provide written notification of the denial to the client or client's legal representative within 30 calendar days of receipt of the request or within 60 calendar days if additional documentation is needed. Clients denied IFS have the right to request an administrative hearing pursuant to sections 120.569 and 120.57, F.S., within 30 calendar days of notification of the denial, partial approval or termination.

(b) If the Agency denies IFS based on lack of documentation and additional documentation subsequently becomes available, or there is a change in the applicant's or client's situation, the applicant or 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.

*Rulemaking Authority 393.066(8), 393.0663, 393.501(4), 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 ~~Prioritization~~ Criteria for Approval.**

(1) IFS for applicants may only be approved for the following:

(a) A comprehensive assessment as defined in section 393.063(9), F.S., for purposes of determining eligibility for Agency services pursuant to section 393.065(1), F.S.; or

(b) When he or she requires assistance completing the application for Agency services, including any process relating to the eligibility determination and support planning activities.

(2) IFS for clients may only be approved for the following:

(a) Except for a client eligible for in-home subsidies under Rule 65G-13.004, F.A.C., to receive IFS, the client shall demonstrate that:

1. Community-based services are medically necessary to prevent institutionalization under section 393.066(3), F.S.; or

2. one-time or temporary IFS will avert a crisis pursuant to section 393.065(5)(a), F.S., and division 65G, F.A.C.

(b) In addition to meeting the requirements of (a) of this section:

1. For a client actively enrolling onto the Waiver, the client shall demonstrate an imminent risk prior to Waiver enrollment. The provision of IFS shall only be approved to directly address the imminent risk and must end on the effective date upon commencement of waiver services that addresses the imminent risk.

2. For a client with a pending Significant Additional Needs ("SANs") request, as described in Rule 65G-4.0218, F.A.C., IFS may only be approved:

a. For a service or services that directly address the SANs request;

b. To address an imminent risk; and

c. Must terminate:

i. Upon denial of the SANs request; or

ii. After approval of the SANs request and upon commencement of waiver services that addresses the imminent risk.

(3) 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.

(4) In order for an applicant or 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:

1. Medicaid State Plan;

2. The Waiver, except as provided for in subsection (2)(b) of this Rule;

3. Natural supports;

4. Other agencies or programs; and

5. Other paid supports, such as Medicare or private insurance.

(5) The following services are allowable under IFS:

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

(b) Employment services;

(c) Family care services;

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

(e) In-home subsidies, as described in Rules 65G-13.004 to 13.009, F.A.C.;

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

(g) Parent training;

(h) Personal care services, as defined in section 393.063, F.S.;

(i) Recreation;

(j) Residential facility services;

(k) Respite services, as defined in section 393.063, F.S.;

(l) Social services;

(m) Specialized therapies;

(n) Supporting living services;

(o) Transportation; and

(p) Other habilitative and rehabilitative services.

(6) 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 except in emergency situations in which the client is granted an Emergency In-Home Subsidy;

(j) Premiums for life, auto, medical/health, renter's, or homeowner's insurance;

(k) Loans, debts, or credit card payments;

(l) Personal spending funds or savings accounts;

(m) Alcohol or nicotine products or supplies;

(n) 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 an In-Home Subsidy;

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

(p) Computing devices, such as computers and tablet personal computers;

(q) Telephones for persons in the family home or a licensed facility;

(r) Second telephone line in person's own home;

(s) Court costs, lawyer fees, traffic tickets, or fines;

(t) Recreational items or expenses related to events and activities that a client attends that do not address an assessed need of the client;

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

(v) Capital improvements to property;

(w) General repair and maintenance of property, such as repair of major appliances and heating, ventilation, and air conditioning systems;

(x) Fees related to legal guardianship and legal guardianship reports;

(y) Property taxes;

(z) Supporting or subsidizing any other person living in the client's household;

(aa) Providing direct services and supports to a client who is the recipient of the In-Home Subsidy; and

(ab) 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.

*Rulemaking Authority 393.065, 393.066(8), 393.0663, 393.501(4), F.S. Law Implemented 393.063, 393.065, 393.066, 393.0663, F.S. History—New 8-28-16; Amended \_\_\_\_\_.*

#### **65G-13.004 Eligibility Requirements for In-Home Subsidies**

(1) All in-home subsidy funding is limited to essential needs that relate to the client's goal of remaining in his or her own home.

(2) The request for an in-home subsidy must:

(a) Conform with the requirements of 65G-13.002(1)(a), F.A.C.; and

(b) Include 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 \_\_\_\_\_, to the Agency, the results of which substantiate a need for the in-home subsidy; and

(c) Include documentation that demonstrates the need of the client to remain in his or her own home.

(3) To be eligible for an in-home subsidy, the client must establish:

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

(b) he or she would be unable to remain in his or her own home without the in-home subsidy; and

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

1. Is in the client's best interest;

2. Does not jeopardize his or her health and safety needs; and

3. Is more cost-effective than other options.

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

(5) The maximum amount for an in-home subsidy will be based on client need, as determined by the client's Individual Financial Profile that was approved by the Agency, and the availability of Agency funds.

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

(7) The need for an in-home subsidy cannot be created by mismanagement or misuse of the client's funds, which means spending funds on services or equipment that were not authorized when the application for funds was submitted and approved for a specific use.

(8) A month-to-month lease is not considered a valid lease for the purposes of this rule unless the client's circumstances meet any of the criteria listed in subsections (a)-(c) of this section and may not be used for more than three consecutive months per fiscal year.

(a) 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;

(b) 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

(c) The client's health, safety, and welfare require he or she sign a month-to-month lease.

(9) With the exception of Start-Up In-Home Subsidies, a copy of the current signed lease agreement between the client and landlord shall be provided to the appropriate Regional Office. The client shall sign any renewal lease on or before the renewal date and provide it to the Agency annually or, if signed each month, monthly.

(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-home subsidies will not be approved retroactively. In limited circumstances, an exception may be made on a case-by-case basis by the Agency's regional office to correct an administrative error or to consider a health and safety risk or emergency situation.

(11) A week-to-week lease is not considered a valid lease for the purposes of this rule.

(12) The Agency identifies and approves funds on a one-time or ongoing basis based on the client's identified needs. Criteria restricting items that may be purchased with In-Home Subsidy funds can be found in Rule 65G-13.007, F.A.C. In-home subsidies include the following:

(a) Start-Up In-Home Subsidy.

1. A Start-Up In-Home Subsidy is financial assistance the Agency may provide 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 qualify for a Start-Up In-Home Subsidy, the client shall:

a. Demonstrate that he or she requires financial assistance in order to obtain a valid lease and move into his or her own home; and

b. Submit to the Agency a copy of the un-signed proposed lease before approval of the Start-Up In-Home Subsidy.

2. The Agency will not reimburse start-up expenses that the client incurred prior to receiving approval for a Start-Up In-Home Subsidy.

(b) Temporary In-Home Subsidy.

1. A Temporary In-Home Subsidy is financial assistance the Agency may provide to a client who loses a roommate who shared expenses with the client until a new roommate is selected to share costs.

2. If the Agency approves a Temporary In-Home Subsidy, the Agency will review the need for the subsidy every 30 calendar days. The client's support coordinator or, if applicable, supported living coach, shall provide a written explanation of efforts taken to find a roommate on a monthly basis or more frequently as requested by the Agency. Failure to demonstrate that the client is actively seeking a roommate will result in termination of the Temporary In-Home Subsidy.

3. If, after six months of receiving a Temporary In-Home Subsidy or the end of the current fiscal year, whichever comes first, the client has not found a replacement roommate, the support coordinator or supported living coach, if applicable, shall submit an updated Individual Financial Profile for reevaluation of the need for the Temporary In-Home Subsidy, and if, at that time, the client's need persists:

a. The support coordinator or supported living coach, if applicable, will work with the client to find a less costly alternative, such as a different living environment; and

b. If no less costly alternative is identified, the client's updated Individual Financial Profile shall demonstrate that he or she has used all resources or options to reduce the costs of living as part of the Agency's re-evaluation.

c. If it is determined by the Agency that the client has not used all other resources or options, then the Temporary In-Home Subsidy may either be reduced or terminated, as appropriate, accordingly.

(c) Emergency In-Home Subsidy.

1. An Emergency In-Home Subsidy is financial assistance the Agency may provide to supplement a client's income, or another In-Home Subsidy, when the financial situation of the client suddenly changes and that client risks losing his or her housing due to the change. The client shall demonstrate that he or she requires financial assistance in order to maintain residence in his or her own home due to a sudden change the client recently experienced or will soon experience in his or her financial situation. This includes completing a new or updated Individual Financial Profile to substantiate the need for an Emergency In-Home Subsidy.

a. For the purposes of subsection (c) above, a "sudden change" includes:

(I) The death or debilitating injury of a person who provides financial assistance to the client such that this person cannot provide financial assistance;

(II) A medical emergency that requires payment from the client; or

(III) An act of nature that necessitates payment to ensure the health, safety, and welfare of the client.

b. A "sudden change" does not include the occurrence of events that are not proximate in time, such as weeks or months, to when the client requests the Emergency In-Home Subsidy.

2. If the Agency approves an Emergency In-Home Subsidy, the Agency will review the need for the subsidy every 30 calendar days. An Emergency In-Home Subsidy will not be approved for longer than 90 days.

3. A client who is the recipient of an Emergency Subsidy shall manage the use of such funds with the assistance of his or her designated fiscal agent, support coordinator, and/or supported living coach.

4. If the client provides documentation, including a new or updated Individual Financial Profile, supporting his or her request for an Emergency In-Home Subsidy when the client requests the subsidy, the Agency shall render a decision as soon as is practicable to prevent the client's health, safety, or welfare from being placed in jeopardy. In no event shall the Agency take longer than 30 calendar days to render a decision regarding a request for an Emergency In-Home Subsidy. Failure to complete a new or updated Individual Financial Profile to substantiate the need for an Emergency In-Home Subsidy constitutes grounds for denial or partial approval of the client's request for an Emergency In-Home Subsidy.

(d) Ongoing In-Home Subsidy.

1. An Ongoing In-Home Subsidy is financial assistance the Agency may provide on a monthly basis to a client who demonstrates a need for ongoing financial support in order to live in his or her own home.

2. An Ongoing In-Home Subsidy will not be approved beyond the remainder of the current fiscal year.

3. An approval for Ongoing In-Home Subsidy will be based on the client's Individual Financial Profile and demonstrated need for the Ongoing In-Home Subsidy, subject to availability of funds. In order for the Agency to review a client's ongoing need for an Ongoing In-Home Subsidy, a client shall request renewal of the Ongoing In-Home Subsidy 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 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.

4. If the support coordinator's or, if applicable, supported living coach's face-to-face quarterly meeting, described in Rules 59G-13.070 and 65G-13.007, F.A.C., includes review of this documentation within 60 days of the lease ending, then this review does not need to be repeated for purposes of this rule.

(13) 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, or termination of the subsidy.

*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 Approval Process for In-Home Subsidies**

(1) The Agency will distribute funds for in-home subsidies in accordance with the client's individual determination of need as requested in the client's Individual Financial Profile and approved by the Agency as detailed in the Agency's notice to the client and will be subject to the availability of funds.

(2) The client shall complete an Individual Financial Profile, which is adopted and incorporated by reference in Rule 65G-13.004, F.A.C., to request an in-home subsidy.

(3) The Agency shall not approve 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.

(4) The following individuals shall provide assistance in completing or updating the Individual Financial Profile:

(a) If a client has a supported living coach, the supported living coach shall assist the client or legal representative 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 shall 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 a supported living coach, the support coordinator shall assist the client or legal representative 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.

(5) The Agency will follow the same review and determination process within the timeframes described in 65G-13.002, F.A.C.

(a) If a client requests an Emergency In-Home Subsidy, the Agency will review the request and determine the client's eligibility for the subsidy as soon as practicable, but no later than 30 calendar days from receipt of the client's Individual Financial Profile.

(6) A client who requests to receive 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.

(7) The client shall exhaust any other funding source available before the Agency will approve a subsidy. The support coordinator and supported living coach shall 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:

(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) Unavailability of funds is sufficient reason to deny a request for an in-home subsidy. The approval of all in-home subsidies may be reduced or eliminated if funds are not available or if funds are used outside the scope of what was approved by the Agency as shown in the notice approving the in-home subsidy.

(9) 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.

(10) Upon approval of any in-home subsidy, the Agency will issue a notice that the request was approved to the client or to the client's legal representative that reflects the approved subsidy amount, the period of time to which it applies, and the specifically approved use(s) of such funds.

(a) The support coordinator shall place a copy of the notice in the client's central record.

(b) In-home subsidy funds shall be used to purchase the less costly version of the items listed in the 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. History–New \_\_\_\_\_.

#### **65G-13.006 In-Home Subsidy Fund Restrictions**

- (1) In-home subsidy funds 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 except in emergency situations in which the client is granted an Emergency In-Home Subsidy;
  - (i) Premiums for life, auto, medical/health, renter's, or homeowner's 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;
  - (z) Internet; and
  - (aa) 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 393.066, 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 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 shall document this activity in his or her progress/case notes.
- (2) Support coordinators shall verify that the in-home subsidy funds have been spent appropriately, as described in the approval notice sent by the Agency, which shall be documented in the client's progress/case notes. This includes reviewing receipts during quarterly meetings to verify that designated items were purchased as approved by the Agency.
- (3) In-home subsidy funds shall be used in a manner that is approved by the Agency.
- (a) Support coordinators and supported living coaches shall notify the Agency upon discovering any use of in-home subsidies that was not previously approved by the Agency.

(b) Support coordinators and supported living coaches 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 or assistance with money management;

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

(c) In any case where in-home subsidy funds are not used in a manner that was previously approved by the Agency, the Agency shall take appropriate action necessary to ensure that the use of in-home subsidy funds is in compliance with this chapter and Florida Statutes, including:

1. Terminating or decreasing the amount of the subsidy; or

2. 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 client's guardian.

(4) 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 person who misused the funds shall repay the funds to the Agency. If necessary, the Agency will make appropriate referrals to the State Attorney, Department of Children and Families, law enforcement, or other appropriate authorities in accordance with chapters 39 and 415, F.S.

(5) Pursuant to the requirements of Rules 65G-13.004 and 13.006, F.A.C., a client shall 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) A change in cost-sharing arrangements between roommates;

(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;

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

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

(6) Each client's unique circumstances will determine the need for an increase or decrease of an in-home subsidy.

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-13.008 Payment**

(1) Details regarding the intent and payment plan of the in-home subsidy shall be documented by the client's support coordinator in the client's support plan or its addendum which shall be maintained in the client's central record.

(2) Upon receipt of an approved invoice, payments shall be made to the entity for which the subsidy is being requested (such as a landlord or utility or phone company) in lieu of payments directly to the client or client's guardian whenever possible.

(3) If the client has been adjudicated incompetent, payments will be made to the guardian, appointed fiscal agent, or representative payee when payments directly to the vendor are not possible. The guardian, client's fiscal agent, or representative payee, who receives the funds on behalf of the client, shall not be the provider of the client's IFS.

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-13.009 Notice of Denial or Change of In-Home Subsidy Amount**

(1) The Agency shall inform the client of the decision to deny, partially approve, reduce, or terminate an in-home subsidy by providing 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., and chapter 65G-5, F.A.C.:

(b) The client is requesting an in-home subsidy for items not authorized by subsection 393.0695(2), F.S., and chapter 65G-13, F.A.C.:

(c) The client’s request exceeds the limits of the Agency’s appropriated funds;

(d) The client’s request does not contain documentation demonstrating the need of the requested in-home subsidy; and

(e) The client’s request is in excess of the client’s needs to remain in the client’s own home pursuant to the Individual Financial Profile.

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 \_\_\_\_\_.