

## Notice of Proposed Rule

### **DEPARTMENT OF CHILDREN AND FAMILIES**

#### **Agency for Persons with Disabilities**

RULE NOS.:RULE TITLES:

65G-4.0213 Definitions

65G-4.0215 General Provisions

**PURPOSE AND EFFECT:** The Agency for Persons with Disabilities (“Agency”) is updating these rules to conform with the changes to the § 1915(c) Home and Community-Based Services Waiver agreement and the Developmental Disabilities Individual Budget Waiver Services Coverage and Limitations Handbook, adopted by reference in Rule 59G-13.070, Florida Administrative Code. A new service is being added to the Agency’s Home and Community-Based Services Medicaid Waiver program (“iBudget Medicaid Waiver”) called Life Skills Development Level 4 - Prevocational Services. Prevocational services are services that provide learning and work experiences, including volunteer work, where the individual can develop general, non-job-task-specific strengths and skills that contribute to employability in paid employment in integrated community settings. The Regional iBudget Provider Enrollment Application and the Provider Expansion Request forms are being amended to include Life Skills Development Level 4 as well as make general improvements to the usability of the forms.

**SUMMARY:** The subject area to be addressed is the Provider Enrollment Application and Provider Expansion Request forms to include Life Skills Development Level 4 - Prevocational Services, as a provider service option.

**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 been prepared by the Agency.

The SERC can be summarized by: rulemaking is necessary to update the Regional iBudget Provider Enrollment Application and the Provider Expansion Request forms to list Life Skills Development Level 4; without these rules the Agency would be acting pursuant to an unadopted rule; and the Agency determined the 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 these rules.

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, Florida Statutes, 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:** 393.501(1), 393.0662, F.S.

**LAW IMPLEMENTED:** 393.063, 393.0662, 409.906, 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:** Nathan Koch, Deputy General Counsel, Agency for Persons with Disabilities, 4030 Esplanade Way, Suite 335, Tallahassee, FL 32399, (850) 922-9512, Nathan.Koch@apdcares.org.

**THE FULL TEXT OF THE PROPOSED RULE IS:**

65G-4.0213 Definitions

(1) through (23) No change.

(24) "Service Families" means eight categories that group services related to: Life Skills Development, Supplies and Equipment, Personal Supports, Residential Services, Support Coordination, Therapeutic Supports and Wellness, Transportation and Dental Services. The Service Families include the following services:

(a) Life Skills Development, which includes:

1. Life Skills Development Level 1 (companion services),
2. Life Skills Development Level 2 (supported employment); ~~and~~
3. Life Skills Development Level 3 (adult day training); ~~and~~
4. Life Skills Development Level 4 (prevocational services).

(b) through (h) No change.

(25) through (34) No change.

*Rulemaking Authority 393.501(1), 393.0662 F.S. Law Implemented 393.063, 393.0662, 409.906 F.S. History--New 7-7-16, Amended 7-1-21, \_\_\_\_\_.*

#### 65G-4.0215 General Provisions.

(1) through (3) No change.

(4) Cost Plan Flexibility.

(a) through (b) No change.

(c) Clients enrolled in iBudget will have flexibility and choice to budget or adjust funding among the following services without requiring additional authorizations from the Agency, provided the client's overall iBudget Amount is not exceeded and all health and safety needs are met:

1. Life Skills Development 1,
2. Life Skills Development 2,
3. Life Skills Development 3, within the approved ratio,
4. Life Skills Development 4, within the approved ratio.
4. through 11. renumbered as 5. through 12. No change.

(5) No change.

(6) Approval, Denial, or Closure of Applications.

(a) No change.

(b) To enroll as a provider for iBudget Waiver services, the provider must first submit an application to the Agency or Persons with Disabilities using the Regional iBudget Provider Enrollment Application -- WSC -- APD Form 65G-4.0215 A, effective date 7-1-2021, for Waiver Support Coordinator applications, which is available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-12444>, or the Regional iBudget Provider Enrollment Application -- Non-WSC -- APD Form 65G-4.0215 B, effective date \_\_\_\_\_ ~~7-1-2021~~, for all other provider applications, which is available at \_\_\_\_\_ ~~http://www.flrules.org/Gateway/reference.asp?No=Ref-12590~~. These forms are hereby incorporated by reference. The qualifications to provide services are identified in the Handbook.

(c) No change.

(d) If a Waiver provider wishes to, expand by providing additional services, expand services geographically, or expand from solo to agency, the provider must notify the Agency regional office by submitting a Provider Expansion Request form -- APD Form 65G-4.0215 C, effective date \_\_\_\_\_ ~~7-1-2021~~, which is hereby incorporated by reference and is available at \_\_\_\_\_ ~~http://www.flrules.org/Gateway/reference.asp?No=Ref-12446~~. The Agency regional office must approve any expansion prior to the provision of expanded services. The qualifications to provide or expand services are identified in the Handbook.

(7) through (8) No change.

*Rulemaking Authority 393.501(1), 393.0662 F.S. Law Implemented 393.063, 393.0662, 409.906 F.S. History--New 7-7-16, Amended 9-12-18, 7-1-21, \_\_\_\_\_.*

NAME OF PERSON ORIGINATING PROPOSED RULE: Lynne Daw

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: 11/01/2022

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: 11/09/2022