

**AGENCY FOR PERSONS WITH DISABILITIES**  
**Statement Of Estimated Regulatory Costs (SERC)**

Division: Agency for Persons with Disabilities  
Board:  
Rule Number: 65G-4.0213, .0214, .0215, .0216, .0217, and .0218  
Rule Description: Service Delivery Practice and Procedure  
Contact Person: Danielle Thompson

---

**Please remember to analyze the impact of the rule, NOT the statute, when completing this form.**

A. Is the rule likely to, **directly or indirectly**, have an adverse impact on economic growth, private-sector job creation or employment, or private-sector investment in excess of \$1 million in the aggregate within 5 years after the implementation of the rule?

- |  |                              |  |
|--|------------------------------|--|
| 1. Is the rule likely to reduce personal income?           | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. Is the rule likely to reduce total non-farm employment? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 3. Is the rule likely to reduce private housing starts?    | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 4. Is the rule likely to reduce visitors to Florida?       | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 5. Is the rule likely to reduce wages or salaries?         | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 6. Is the rule likely to reduce property income?           | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Explanation:

**Pursuant to section 393.0662, Florida Statutes, the iBudget system serves Agency for Persons with Disabilities (“Agency”) clients who are enrolled in the Home and Community-Based Services (“HCBS”) Medicaid Waiver program. Section 393.0662(15) provides that the Agency has the authority to adopt rules to administer the iBudget system. This includes rulemaking authority to establish the methodology for the determination of a client’s allocation of funds (known as an iBudget) through an algorithm and a supplemental funding process and criteria known as significant additional needs.**

**The rules will not directly or indirectly have an adverse impact on economic growth, private-sector job creation, or employment on private-sector investment, as the changes in these rules are directly attributable to the adoption of chapter 2020-71, Laws of Florida. These rules do not impact provider rates or income. Provider rates are established by the Provider Rate Table in Rule 59G-13.081, Florida Administrative Code. Chapter 2020-71 adjusted certain aspects of the iBudget system’s eligibility process and criteria. The Agency is updating these rules to conform with the changes in statute. The Agency is also updating these rules to**

**AGENCY FOR PERSONS WITH DISABILITIES**  
**Statement Of Estimated Regulatory Costs (SERC)**

**improve the wording of the rules generally so that its application is unambiguous and consistent.**

If any of these questions are answered "Yes," presume that there is a likely and adverse impact in excess of \$1 million, and the rule must be submitted to the legislature for ratification.

B. Is the rule likely to, **directly or indirectly**, have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within 5 years after the implementation of the rule?

1. Is the rule likely to raise the price of goods or services provided by Florida business?

Yes       No

2. Is the rule likely to add regulation that is not present in other states or markets?

Yes       No

3. Is the rule likely to reduce the quantity of goods or services Florida businesses are able to produce, i.e. will goods or services become too expensive to produce?

Yes       No

4. Is the rule likely to cause Florida businesses to reduce workforces?

Yes       No

5. Is the rule likely to increase regulatory costs to the extent that Florida businesses will be unable to invest in product development or other innovation?

Yes       No

6. Is the rule likely to make illegal any product or service that is currently legal?

Yes       No

**Explanation: The rules do not have a direct or indirect adverse impact on business competitiveness. The proposed rules clarify the procedures and criteria used by the Agency to determine a client's iBudget and any significant additional needs. The changes in these rules are attributable to the adoption of chapter 2020-71. The Agency is updating these rules to conform with the changes in statute and to improve the wording of the rules generally so that its application is unambiguous and consistent.**

**AGENCY FOR PERSONS WITH DISABILITIES**  
**Statement Of Estimated Regulatory Costs (SERC)**

If any of these questions are answered “Yes,” presume that there is a likely and adverse impact in excess of \$1 million, and the rule must be submitted to the legislature for ratification.

C. Is the rule likely, **directly or indirectly**, to increase regulatory costs, including any transactional costs (see F below for examples of transactional costs), in excess of \$1 million in the aggregate within 5 years after the implementation of this rule?

**No. Please see explanation provided in A. and answer to F.**

1. Current one-time costs	0
2. New one-time costs	0
3. Subtract 1 from 2	0
4. Current recurring costs	0
5. New recurring costs	0
6. Subtract 4 from 5	0
7. Number of times costs will recur in 5 years	0
8. Multiply 6 times 7	0
9. Add 3 to 8	0

If 9. is greater than \$1 million, there is likely an increase of regulatory costs in excess of \$1 million, and the rule must be submitted to the legislature for ratification.

D. Good faith estimates (numbers/types):

1. The number of individuals and entities likely to be required to comply with the rule.  
*(Please provide a reasonable explanation for the estimate used for the number of individuals and methodology used for deriving the estimate).*

**As of November 1, 2020, 35,182 Agency clients have an iBudget established that will be required to comply with the rules. In addition, as of September 1, 2020, there are 661 waiver support coordinator entities (agency and solo providers) that will be required to comply with the rules to obtain and coordinate HCBS Waiver benefits for Agency clients. The changes in these rules are attributable to the adoption of chapter 2020-71. The Agency is updating these rules to conform with the changes in statute and to improve the wording of the rules generally so that its application is unambiguous and consistent.**

**AGENCY FOR PERSONS WITH DISABILITIES**  
**Statement Of Estimated Regulatory Costs (SERC)**

2. A general description of the types of individuals likely to be affected by the rule.

**Agency clients, as defined by section 393.063(7), Florida Statutes, who are enrolled in the HCBS Waiver are likely to be affected by these rules to the extent that all available non-iBudget services are being utilized prior to accessing iBudget funds.**

**Support coordinators, as defined in section 393.063(41), are also likely to be affected by these rules to the extent that they obtain and coordinate HCBS Waiver services for Agency clients. Waiver support coordinators assist Agency clients enrolled on the HCBS Waiver. The main waiver support coordinator duties and responsibilities are established separately through the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook (“iBudget Handbook”), adopted pursuant to Rule 59G-13.070, and various Agency rules cited therein. Each support coordinator also has “a statutorily authorized, bi-lateral, and voluntary contract” with the Agency that reiterates their duties and responsibilities. See *Diaz v. State, Agency for Health Care Admin.*, 65 So.3d 78, 83 (2011).**

E. Good faith estimates (costs):

1. Cost to the department of implementing the proposed rule:

None. The department intends to implement the proposed rule within its current workload, with existing staff.

Minimal. *(Provide a brief explanation).*

Other. *(Please provide a reasonable explanation for the estimate used and methodology used for deriving the estimate).*

2. Cost to any other state and local government entities of implementing the proposed rule:

None. This proposed rule will only affect the department.

Minimal. *(Provide a brief explanation).*

Other. *(Please provide a reasonable explanation for the estimate used and methodology used for deriving the estimate).*

3. Cost to the department of enforcing the proposed rule:

**AGENCY FOR PERSONS WITH DISABILITIES**  
**Statement Of Estimated Regulatory Costs (SERC)**

None. The department intends to enforce the proposed rule within its current workload with existing staff.

Minimal. *(Provide a brief explanation).*

Other. *(Please provide a reasonable explanation for the estimate used and methodology used for deriving the estimate).*

4. Cost to any other state and local government of enforcing the proposed rule:

None. This proposed rule will only affect the department.

Minimal. *(Provide a brief explanation).*

Other. *(Please provide a reasonable explanation for the estimate used and methodology used for deriving the estimate).*

F. Good faith estimates (transactional costs) likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the proposed rule. *(Includes filing fees, cost of obtaining a license, cost of equipment required to be installed or used, cost of implementing processes and procedures, cost of modifying existing processes and procedures, additional operating costs incurred, cost of monitoring, and cost of reporting, or any other costs necessary to comply with the rule).*

None. This proposed rule will only affect the department.

Minimal. *(Provide a brief explanation).*

Other. *(Please provide a reasonable explanation for the estimate used and methodology used for deriving the estimate).*

There are no costs associated with the changes to these rules. The general changes to wording of the rules are intended to ensure its application is unambiguous and consistent and do not impose cost. There are costs attributable to the adoption of chapter 2020-71, which are described as follows:

**Costs Associated with Chapter 2020-71**

Section 393.0662(3), Florida Statutes (2020), states in part:

The agency must certify and document within each client's cost plan that the client has used all available services authorized under the state Medicaid plan, school-based services, private insurance and other benefits, and any other resources that may be available to the client before using funds from his or her iBudget to pay for support and services.

## **AGENCY FOR PERSONS WITH DISABILITIES**

### **Statement Of Estimated Regulatory Costs (SERC)**

The requirement that Agency clients use “all available services authorized under the state Medicaid plan, school-based services, private insurance and other benefits, and any other resources that may be available to the client” existed prior to chapter 2020-71, both in that section and other laws. Section 409.910(1), Florida Statutes, states that, “It is the intent of the Legislature that Medicaid be the payor of last resort for medically necessary goods and services furnished to Medicaid recipients. All other sources of payment for medical care are primary to medical assistance provided by Medicaid.” The Agency for Health Care Administration then specifically delineated in the iBudget Handbook that:

The iBudget Waiver is structured to strongly encourage the use of Medicaid waiver funds to supplement and not replace the supports already provided by family, friends, neighbors, vocational and educational programs, and the community. The waiver is to be the payer of last resort. Waiver services are only one element of the supports for a recipient. Recipients, families, legal representatives, WSCs, and providers are responsible for seeking non-waiver supports to augment and even replace waiver-paid services.

Additionally, the iBudget Handbook states that:

Services must not be authorized under the iBudget Waiver if they are available from another source.

It is the WSC’s responsibility to first ensure that the same type of service offered through the waiver cannot be accessed through other funding sources, such as:

- Natural and community supports.
- Third Party Payer (e.g., private insurance).
- Medicare.
- Other Medicaid programs (e.g., Medicaid State Plan or Medicaid managed care plan).

Consistent with these requirements, the Agency utilizes trained support coordinators to provide individualized assistance to clients while the Agency provides oversight and regional support. Section 393.063(41) defines “support coordinator”, as:

a person who is designated by the agency 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.

## **AGENCY FOR PERSONS WITH DISABILITIES**

### **Statement Of Estimated Regulatory Costs (SERC)**

Since 1994, the legislative definition of “support coordinator” has consistently required every support coordinator to perform the same responsibilities. Ch. 94-154, Laws of Fla. Notable within the statutory definition are the requirements that support coordinators identify and find resources, gain access to the supports and services on behalf of clients, and maintain relevant records. Support coordinators have numerous duties delineated in chapter 393, the iBudget Handbook, and these rules that are intended to ensure HCBS Waiver (the funding source for each client’s iBudget) services are provided in compliance with state and federal law. Support coordinators who competently perform these statutory and previously established duties should already have the information and documentation referenced in these rule changes. However, not all support coordinators have performed these duties effectively. Incomplete and unsubstantiated requests for iBudget funds often result in delays in service authorizations, cost plan updates, and Significant Additional Needs requests. Service request denials and delays often reflect a support coordinator’s failure to attempt to locate and coordinate other resources for the client. Other resources include but are not limited to Medicaid state plan, community supports, and natural supports. Additionally, support coordinators often fail to document their efforts in the client’s support plan as required by the iBudget Handbook.

Chapter 2020-71 added the requirement for certification that each client has used all other available services, which emphasizes its importance to the HCBS Waiver program. In order to implement chapter 2020-71 to improve efficiency and clearly and unambiguously communicate the need for consideration of non-HCBS Waiver services and supports prior to authorizing iBudget funds, the Agency developed the Verification of Available Services form and WSC Job Aid for Cost Plans and Significant Additional Needs Documentation (“WSC Job Aid”). The Verification of Available Services form is a tool for WSCs to utilize as an organizational checklist to more efficiently verify that all available services have been identified and as a way for the Agency to certify that this function was carried out in accordance with statute. The WSC Job Aid will serve as a quick reference tool for previously established documentation requirements.

#### **Rules Improve Efficiency and Accountability**

These rules improve efficiency by both creating the WSC Job Aid form and eliminating the need for support coordinator to complete the Amount Implementation Meeting (AIM) Worksheet in certain circumstances.

The WSC Job Aid means a new form incorporated by reference in these rules that identifies the documentation required for each service requested in the cost plan. The WSC Job Aid is 16 pages which compares to the iBudget Handbook at 239 pages. This form acts as a quick reference guide and quality improvement verification checklist that the WSC can use to make the service request research more efficient. The WSC will likely save time by reviewing the WSC Job Aid for the same information. The WSC will also likely save time by using the checklist to ensure all of the requirement documentation is included in the request, thereby reducing denials and delays and benefiting the client.

The AIM worksheet is a form completed by the WSC when a new enroll or a client’s algorithm is recalculated to communicate the algorithm amount, identified proposed

**AGENCY FOR PERSONS WITH DISABILITIES**  
**Statement Of Estimated Regulatory Costs (SERC)**

services and identify additional services that are medically necessary for the client. The rule update removes the requirement for the WSC to submit an AIM worksheet when additional services are sought through the SANs process after the iBudget amount has already been established.

These rules clarify the purpose of the statute that improves accountability by requiring support coordinators to formally report all efforts to obtain services available to Agency clients outside of the iBudget. This will result in more effective use of taxpayer dollars.

G. An analysis of the impact on small business as defined by s. 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by s. 120.52, F.S.  
*(Includes:*

- *Why the regulation is needed [e.g., How will the regulation make the regulatory process more efficient? Required to meet changes in federal law? Required to meet changes in state law?];*
- *The type of small businesses that would be subject to the rule;*
- *The probable impact on affected small businesses [e.g., increased reporting requirements; increased staffing; increased legal or accounting fees?];*
- *The likely per-firm regulatory cost increase, if any).*

A small business is defined in Section 288.703, F.S., as “...an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.”

A small county is defined in Section 120.52(19), F.S., as “any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.” And, a small city is defined in Section 120.52(18), F.S., as “any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census.”

The estimated number of small businesses that would be subject to the rule:

- 1-99                       100-499                       500-999  
 1,000-4,999               More than 5,000  
 Unknown, please explain:

Analysis of the impact on small business:

**Why the regulation is needed**

These changes are necessary to update the Agency’s rules to conform with the adoption of chapter 2020-71.



**AGENCY FOR PERSONS WITH DISABILITIES**  
**Statement Of Estimated Regulatory Costs (SERC)**

Section 393.0662 (2020), requires the Agency to certify and document within a client's cost plan that all available services and resources are being utilized before using funds from his or her iBudget. Waiver support coordinators are obligated by statute, rule, and contract to assist Agency clients in identifying their capacities, needs, and resources to ensure service delivery is appropriate, which includes ensuring the HCBS Waiver is the payor of last resort. These rules create a process for waiver support coordinators to provide the Agency the necessary information for such certification.

Section 393.0662(1) enables the Agency to authorize additional funding to a client's iBudget through a significant additional needs review. These rules modify the significant additional needs review and eligibility criteria to conform with the statutory changes.

**The type of small businesses  
that would be subject to the rule**

The type of small businesses subject to these rules include certain waiver support coordinator entities who obtain and coordinate HCBS Waiver services for Agency clients. However, the changes in these rules are attributable to the adoption of chapter 2020-71. The Agency is updating these rules to conform with the changes in statute and improve the wording of the rules generally so that its application is unambiguous and consistent.

**The probable impact on affected small businesses  
and  
The likely per-firm regulatory cost increase**

The changes in these rules are attributable to the adoption of chapter 2020-71. The Agency is updating these rules to conform with the changes in statute and do not impose additional costs. Therefore, these rules do not affect small business and do not have a per-firm regulatory cost increase.

**Establishing less stringent compliance or reporting requirements in the rule  
Section 120.54(3)(b)2.a.(I), Florida Statutes**

The changes in these rules are attributable to the adoption of chapter 2020-71. The Agency is updating these rules to conform with the changes in statute. The compliance required by these rules are the least stringent possible for the Agency to comply with the statutory change.

**Establishing less stringent schedules or deadlines in the rule for compliance  
or reporting requirements  
S. 120.54(3)(b)2.a.(II), F.S.**

The changes in these rules are attributable to the adoption of chapter 2020-71. The Agency is updating these rules to conform with the changes in statute. There are no schedules or deadlines established by these rules. The Verification of Available Services form incorporated by reference in this chapter is necessary to conform to the statutory change requiring the Agency certify available services prior to approving

**AGENCY FOR PERSONS WITH DISABILITIES**  
**Statement Of Estimated Regulatory Costs (SERC)**

additional funding for a client's iBudget. Therefore, there are no less stringent schedules or deadlines to be considered.

**Consolidating or simplifying the rule's compliance or reporting requirements**  
**S. 120.54(3)(b)2.a.(III), F.S.**

The changes in these rules are attributable to the adoption of chapter 2020-71. The Agency is updating these rules to conform with the changes in statute. The rules' compliance and reporting requirements come straight from the statutory changes. Therefore, there are no such requirements to consolidate or simplify.

**Establishing performance standards or best management practices to replace design or operational standards in the rule**  
**S. 120.54(3)(b)2.a.(IV), F.S.**

The changes in these rules are attributable to the adoption of chapter 2020-71. The Agency is updating these rules to conform with the changes in statute. Design or operational standards of small businesses are neither affected nor contemplated by these changes.

**Exempting small businesses, small counties, or small cities from any or all requirements of the rule**  
**S. 120.54(3)(b)2.a.(V), F.S.**

Small businesses providing waiver support coordination services cannot be exempted from these rules without contravening chapter 2020-71. Small counties and small cities are not subject to this rule, so there is no option for exemption.

There is no small county or small city that will be impacted by this proposed rule.

A small county or small city will be impacted. Analysis:

Lower impact alternatives were not implemented? Describe the alternatives and the basis for not implementing them.

H. Any additional information that the agency determines may be useful.

None.

Additional.

I. A description of any good faith written proposal for a lower cost regulatory alternative to the proposed rule which substantially accomplishes the objectives of the law being implemented and either a statement adopting the alternative or a statement of the reasons rejecting the alternative in favor of the proposed rule.

**AGENCY FOR PERSONS WITH DISABILITIES**  
**Statement Of Estimated Regulatory Costs (SERC)**

No good faith written proposals for a lower cost regulatory alternative to the proposed rule were received.

See attachment "A".

Adopted in entirety.

Adopted / rejected in part. *(Provide a description of the parts adopted or rejected, and provide a brief statement of the reasons adopting or rejecting this alternative in part).*

Rejected in entirety. *(Provide a brief statement of the reasons rejecting this alternative).*

See attachment "B".

Adopted in entirety.

Adopted / rejected in part. *(Provide a description of the parts adopted or rejected, and provide a brief statement of the reasons adopting or rejecting this alternative in part).*

Rejected in entirety. *(Provide a brief statement of the reasons rejecting this alternative).*

See attachment "C".

Adopted in entirety.

Adopted / rejected in part. *(Provide a description of the parts adopted or rejected, and provide a brief statement of the reasons adopting or rejecting this alternative in part).*

Rejected in entirety. *(Provide a brief statement of the reasons rejecting this alternative).*

See attachment "D".

Adopted in entirety.

Adopted / rejected in part. *(Provide a description of the parts adopted or rejected, and provide a brief statement of the reasons adopting or rejecting this alternative in part).*

Rejected in entirety. *(Provide a brief statement of the reasons rejecting this alternative).*

See attachment "E".

Adopted in entirety.

Adopted / rejected in part. *(Provide a description of the parts adopted or rejected, and provide a brief statement of the reasons adopting or rejecting this alternative in part).*

**AGENCY FOR PERSONS WITH DISABILITIES**  
**Statement Of Estimated Regulatory Costs (SERC)**

Rejected in entirety. *(Provide a brief statement of the reasons rejecting this alternative).*

# # #