

NOTICE OF VARIANCE OR WAIVER

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Agency for Persons with Disabilities

RULE NO: RULE TITLE:

65G-1.047 Crisis Status Criteria

NOTICE IS HEREBY GIVEN that on September 29, 2014, the Agency for Persons with Disabilities received a petition for an emergency variance from rule 65G-1.047, from T.H., a medically complex and fragile 18-year old female, by and through Peter Digre, Deputy Secretary, Department of Children and Families. The rule sets forth crisis status for available waiver placement in a Home and Community-Based (HCBS) waiver (“waiver”) authorized by 42 U.S.C. 1396n(c) of the federal Social Security Act and section 409.906(13), F.S. Specifically, the rule establishes crisis status criteria whereby individuals determined to be in crisis are prioritized for available placements in order of severity of crisis relative to that of other applicants for crisis. The rule establishes a “first priority” for homeless applicants which includes those living in homeless shelters or in an unsafe environment. The rule provides for a “second priority” for those applicants who exhibit behaviors that are seriously harmful to themselves or others. Lastly, the rule provides a “third priority” where the applicant’s caregiver is in extreme duress and is no longer able to provide for the applicant’s health and safety because of illness, injury or advanced age, and immediate waiver services are necessary for the applicant to remain living with the caregiver or to relocate to an alternative living arrangement. Petitioner does not fall squarely within the priority crisis categories of the rule. Petitioner states that in her unique circumstances the rule creates an unintended substantial hardship for T.H. that would be inconsistent with the intent of the statute. Petitioner states that lack of funding from this program would displace T.H. from her facility and negatively impact her medical treatment, while enrolling her into the waiver would ensure continuity of T.H.’s care and serve the purposes of the HCBS program.

Any interested person or other agency may submit written comments within 5 days after the publication of this notice. Comments received will be made a part of the record regarding the petition for emergency variance.

A copy of the Petition for variance or waiver may be obtained by contacting: Brian McGrail, Agency for Persons with Disabilities, 4030 Esplanade Way, Suite 380, Tallahassee, Florida 32399-0950; brian.mcgrail@apdcares.org.