

NOTICE OF RULE DEVELOPMENT

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Agency for Persons with Disabilities

RULE NO.: RULE TITLE:

65G-13.001 Definitions

65G-13.002 Individual and Family Supports (IFS) Determination Procedure

65G-13.003 Individual and Family Supports Prioritization Criteria

PURPOSE AND EFFECT: The purpose of these new rules is to establish guidelines and eligibility requirements for the agency's administration of individual and family supports utilizing community based services authorized under s. 393.066, F.S.

SUBJECT AREA TO BE ADDRESSED: The administration of individual and family supports utilizing community based services.

RULEMAKING AUTHORITY: Section 393.501(1), F.S.

LAW IMPLEMENTED: Section 393.066, F.S.

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

DATE AND TIME: June 18, 2015, 10:00 am – 12:00 noon.

PLACE: The Agency for Persons with Disabilities, 4030 Esplanade Way, Room 301, Tallahassee, Florida 32399

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 72 hours before the workshop/meeting by contacting: Kent Carrol, 4030 Esplanade Way, Suite 360, Tallahassee, Florida 32399, (850) 414-8501, kent.carroll@apdcares.org.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kent Carroll, 4030 Esplanade Way, Suite 360, Tallahassee, Florida 32399, (850) 414-8501, kent.carroll@apdcares.org.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

65G-13.001 Definitions.

(1) "Client" means an individual served by the Agency for Persons with Disabilities who meets eligibility criteria as defined in 393.063(9), F.S.

(2) "iBudget Waiver" Home and Community Based Services (HCBS) waiver authorized by 42 U.S.C. 1396n(c) of the federal Social Security Act and Section 409.906, F.S., that provides Medicaid funding for home and community based services to eligible persons with developmental disabilities who are eligible for Agency services and who live at home or in a home-like setting.

(3) "Individuals and Family Supports (IFS)" means assistance the agency provides in meeting critical services needs of individuals served by the Agency funded by Social Services Block Grant dollars and General Revenue.

(4) "Individual Representative" The individual's parent (for a minor), guardian, guardian advocate, person holding a power of attorney for decisions regarding health care or public benefits, healthcare surrogate, a designated representative (evidenced by a written designation), or individual's advocate.

(5) "In-Home Subsidy" means financial assistance the Agency provides for individuals receiving Supported Living services when funds are available that the Agency reassesses quarterly to supplement the individuals income, based on his or her individual need.

(6) "Regional office" Agency for Persons with Disabilities office serving a designated local geographical area.

(7) "Social Services Block Grant (SSBG)" federal funds that enable states to furnish social services to meet the needs of individuals residing within a state.

(8) "Waiting List" is the prioritized list maintained by the APD Central Office of Persons with Disabilities that have been determined eligible for APD services and eligible to receive waiver services when funding is available.

65G-13.002-Individual and Family Supports (IFS) Determination Procedure

(1) Subject to funding availability, the Agency will accept oral or written requests for IFS funding by a client or the client's individual representative, or support coordinator.

(2) The client or client's individual representative shall request IFS funds through the Regional office located in the service area where the client resides. IFS funding can also be initiated by Agency recommendation. The Agency shall not provide IFS to a client unless the Agency has determined that the client has a developmental disability, as defined in Section 393.063(9), F.S

(3) IFS funds can only be obligated for the current fiscal year either as non-recurring services or services that recur but are only committed for the current fiscal year.

(4) Prior to authorizing the use of IFS funds the Regional office shall explore all available funding options for which the individual is eligible. Services for Medicaid eligible clients under the age of 21 are covered by the Medicaid State Plan. These services include physical, occupational, speech therapies; supplies and equipment; personal care; nursing services, dental services, and behavior analysis.

(5) The Regional office shall collect pertinent information and supporting documentation relevant to an IFS requests and conduct a preliminary assessment based on the IFS status criteria specified in Rule 65G-13.003, F.A.C.

(a) If the Regional office concludes that the client does not meet IFS criteria or that the services needed are available from other agencies or programs or covered by other third-party payers, the Regional office will deny the IFS request and provide written notification of the denial to the client or client's individual representative.

(b) If the Regional office concludes that the client meets IFS status and does not have access to insurance, other agencies or programs for needed services, or concludes that programs in which the applicant is participating cannot meet the applicant's service needs, the Regional office will approve the IFS request.

(6)(a) APPROVAL.

1. If funding is available and the applicant is approved for IFS, the client will be offered the IFS services for the current fiscal year.

2. After the Agency determines the IFS funding amount the Regional office will provide written notice of IFS to the client or client's individual representative.

(b) DENIAL OR TERMINATION. The Regional office will notify the client or client's individual representative in writing of a denial of IFS funding. If the Agency denied the IFS based on lack of documentation and additional documentation becomes available, or a change in the applicant's situation may affect the applicant's status for IFS determination, the applicant may reapply to the Regional Office for IFS consideration.

(7) Allowable IFS Services: The following services are allowable under IFS funding:

a. Life Skills Development, which includes Adult Day Training, Supported Employment, and Companion Services

b. Family care services, which includes Respite care, Guardian Advocate Referrals, and Recreation used to provide temporary relief for a brief planned absence of the caregiver.

c. Medical and Dental services, which includes nursing services, consumable medical supplies, medical evaluations, and dental services

d. Personal Supports, including personal care assistance

e. Residential Habilitation and facility services

f. Social Services, which includes Support Coordination, Support Planning, Psychological Evaluations, and Interpreter Services.

g. Specialized Therapies, which include Physical Therapy, Speech Therapy, Occupational Therapy, Respiratory Therapy, Specialized Mental Health Counseling, and Dietician services

h. Supporting Living services, including Supported Living Coaching and In-Home Subsidies

i. Training, which includes parent and caregiver training as part of Behavior Analysis and Behavior Assistant services, and self advocacy training

j. Transportation to treatment and services

k. Other facilitative and rehabilitative services, which include Environmental Accessibility Adaptations, Durable Medical Equipment, Vehicle Modifications, Competency Training, and Personal Emergency Response Systems

(8) Non-Allowable IFS services: Services and items that are not medically necessary or not intended for the direct benefit of the client may not be purchased with IFS funds. IFS funds may not be used for experimental therapies, home repairs, spas, pools, fences, or restraint devices.

Rulemaking Authority 393.501(1), FS.; Law Implemented 393.066, F.S.

65G-13.003 Individual and Family Supports Prioritization Criteria

(1) Individuals determined to need IFS funding will be prioritized for available funds based on criteria set forth in subsections (5) through (7).

(2) If multiple IFS requests fall within the same prioritization category, they will be prioritized within that category by consideration of the intensity of services needed.

(3) The majority of IFS funds are provided to the state through federal Social Services Block Grant (SSBG), authorized under Title XX of the Social Security Act. These funds provide for a variety of services. However, federal interpretation specifically prohibits the use of SSBG funds for providing medical services, dental services, and for providing direct stipends to individuals or their families. Instead, the General Revenue funding category may be used for medical and dental services, and for in-home subsidies.

(4) IFS funding amounts are provided to the Agency on a fiscal year basis. The Agency shall not authorize IFS funds that exceed appropriation.

(5) “First Priority” IFS Criteria: In Home Subsidies IFS funds are to be used for individuals who are in supported living and who require stipends as provided in s. 393.0695, F.S. In-home subsidy expenditures for either a startup or ongoing subsidy can be paid only with General Revenue funds from the IFS Category. These funds cannot be used to provide a cash payment or reimbursement to an individual or family member. The payment must be made directly to the vendors.

(6) “Second Priority” IFS Criteria: Emergency Services are services that are critical for health and safety and for which no other resource is available to meet the need. These include the following:

(a) Services needed to address critical needs of individuals who are not eligible for the waiver services or individuals who are on the Medicaid Waiver wait list.

(b) Services to alleviate a potential crisis referral if the services needed are short-term and time-limited, (such as short-term respite until a caregiver recuperates from surgery) and services to assist individuals who did not meet crisis criteria but who have emergency needs.

(c) Individuals who have requested Significant Additional Needs funding above their current annual iBudget Algorithm who need emergency services while waiting for final approval of the Significant Additional Needs funds. In these circumstances IFS may be used if there are not funds within the existing iBudget amount to provide temporary services while the Significant Additional Needs determination is made.

(d) Individuals turning 21 who will lose some Medicaid State Plan benefits and who have a continued need for services.

(e) Individuals transitioning out of the school system at age 22 and who are in need of services for employment or other meaningful day activities.

(f) Children ages 3-5 who are in transition and are in need of early intervention services not provided by CMS or school system

(5) “Third Priority” IFS Criteria: Supported Employment IFS are to be used for individuals who have previously received follow along supported employment services and continue to need these supports to maintain employment. Individuals who obtain a job through the non-recurring legislative appropriation, and continue their jobs into the next fiscal year yet need ongoing supports, may use IFS to maintain employment.

(6) “Fourth Priority” IFS Criteria: Current Contracts - IFS are to be used to reimburse providers contracted to assist individuals on the waiting list for services such as Life Skills Development 1, 2, or 3, etc. or Residential Habilitation. Contracts are required for any provider that exceeds the \$35,000 annual threshold for payment of all services provided

to all individuals within a fiscal year. IFS are to be used to assist individuals who are already receiving ongoing services through IFS funds but have not reached the contracted expenditure threshold of \$35,000, and therefore do not require a contract.

(7) "Fifth Priority: IFS Criteria: Non-Emergency Services – Services for individuals on the waiting list who have needs for services that are not emergency in nature can be approved on a short term basis. These funds are only to be authorized if all other priorities described above have been met.

Rulemaking Authority 393.501(1), FS.; Law Implemented 393.066, F.S.