

Notice of Development of Rulemaking

DEPARTMENT OF CHILDREN AND FAMILIES

Agency for Persons with Disabilities

RULE NOS.:RULE TITLES:

- 65G-3.001 Definitions
- 65G-3.002 Criteria for Admissions and Services
- 65G-3.003 Rules for Reduction of Services by the Provider
- 65G-3.004 Rules for Suspension of Services by the Provider
- 65G-3.005 Rules for Termination of Services by the Provider

PURPOSE AND EFFECT: The purpose of these new rules is to establish uniform guidelines for the agency and service providers relevant to termination, suspension, or reduction of client services by the service provider pursuant to s. 393.125(2), F.S.

SUBJECT AREA TO BE ADDRESSED: Establishing a uniform procedure for termination, suspension or reduction of client services by a service provider.

RULEMAKING AUTHORITY: 393.501(1) FS.

LAW IMPLEMENTED: 393.125(2) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Meghan Kirkley, 4030 Esplanade Way, Suite 360, Tallahassee, Florida 32399, (850)922-4565, meghan.kirkley@apdcares.org

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

(Substantial rewording of Rule 65G-3.001 follows. See Florida Administrative Code for present text.)

65G-3.001 Definitions.

(1) “Agency” means the Agency for Persons with Disabilities.

(2) “Client” means any person determined eligible by the Agency for developmental disability services.

(3) “Contract” means a formal written agreement between the provider and Agency and includes Medicaid Waiver Services Agreement.

(4) “Individual Representative” means the client’s parent (for a minor), guardian, guardian advocate, a designated person holding a power of attorney for decisions regarding health care or public benefits, designated attorney or a healthcare surrogate, or in the absence of any of the above, a medical proxy as determined under s. 765.401, F.S. The individual’s Waiver Support Coordinator shall ascertain whether an individual has any of these representatives and inform the agency of the identity and contact information.

(5) “Provider” means any program or facility for the care, individual provider, treatment, training, residence or habilitation of persons with developmental disabilities that is authorized by the Agency or receives funds from the Agency through a contract or a Medicaid Waiver Services Agreement contract. A provider does not include a spouse, family member or guardian with whom a person with developmental disabilities resides or a provider covered under the provisions of Part VIII of Chapter 400, F.S.

(6) “Reduction” means a decrease in the frequency, duration or intensity in the level of services, initiated by a provider that is not a result of faded or prescribed reductions that are part of service planning. (7) “Suspension” means an involuntary and temporary break in services in a non-residential program initiated by the provider.. Suspension does not mean a break of services to a client by a service provider due to the unavailability of funds to the provider by the Agency.

(7) “Termination” means the involuntary, permanent discharge or discontinuation of services in a program by the provider when such action is not included as part of the service planning process. . Termination does not mean a discontinuation of services to a client by a service provider due to the unavailability of funds to the provider by the Agency.

Specific Authority 393.125(2) FS. Law Implemented 393.0651, 393.067, 393.125(2) FS. History–New 12-10-91, Formerly 10F-8.026, 65B-8.026,_____.

65G-3.002 Criteria for Admissions and Services.

Specific Authority 393.125(2) FS. Law Implemented 393.125(2) FS. History–New 12-10-91, Formerly 10F-8.028, 65B-8.028. Repealed_____.

65G-3.003 Rules for Reduction of Services by the Provider.

Specific Authority 393.125(2) FS. Law Implemented 393.125(2) FS. History–New 12-10-91, Formerly 10F-8.029, 65B-8.029. Repealed_____.

65G-3.004 Rules for Suspension of Services by the Provider.

Specific Authority 393.125(2) FS. Law Implemented 393.125(2), 120 FS. History–New 12-10-91, Amended 5-19-93, Formerly 10F-8.030, 65B-8.030. Repealed_____.

(Substantial rewording of Rule 65G-3.001 follows. See Florida Administrative Code for present text.)

65G-3.005 Rules for Termination, Reduction, or Suspension of Services by the Provider.

(1) TERMINATIONS AND REDUCTIONS

(a) Written notice of intent to terminate or reduce services by the provider shall be received by certified mail thirty calendar days prior to the proposed effective date of the termination or reduction. Written notice shall be given to the client and individual representative. The provider shall notify the Regional office and Support Coordinator 30 days prior to the effective date by either e-mail or certified mail. If the client is on the waiting list, notification is only required to be given to the region who will then follow up accordingly.

(b) The Support Coordinator shall evaluate the circumstances that led to the proposed termination or reduction, determine what actions should be taken to resolve the situation, assist the client and individual representative in locating an alternate provider if resolution is not acceptable to either party, and update the support plan accordingly. At the request of the client and individual representative, the Support Coordinator shall, arrange a meeting with the provider and client or the client’s individual representative, to offer recommendations to resolve the proposed termination or reduction.

(c) The Support Coordinator shall contact the Regional office immediately if they need assistance in locating an alternate provider at least 25 days prior to the effective date of termination or reduction in services. If the client is on the waiting list, the region will ensure an alternative provider is located within this time frame.

(d) If the termination or reduction is for services provided in a licensed residential facility, the Regional office shall immediately work with the Support Coordinator (for all waiver clients), the client, and individual’s representative to choose an alternate living arrangement. If an alternate residential option is not located, the provider issuing the termination or reduction shall continue to serve the client for up to 90 days past the effective date of the original termination or reduction.

(e) If the client or the individual representative select a provider to render the services that cannot be approved by the Agency in accordance with applicable laws, the Regional office shall issue a notice regarding the denial of the client’s provider choice. The notice shall identify an alternate provider or service options.

(2) SUSPENSIONS

(a) Written notice of immediate suspension from a non-residential program must be provided to the client, individual representative, Support Coordinator, and Regional Office. If the client is on the waiting list, notification is only required to be given to the region who will then follow up accordingly. Suspension of services can be implemented by a service provider in a non-residential facility under the following conditions:

1. When the behavior constitutes an emergency or

2. When a client does not adhere to a non-residential service provider’s rules and regulations designed to teach or reinforce normalized behavior patterns. These rules and regulations shall be mutually agreed upon by the provider and the Agency and shall be included in the contract between the Agency and the provider.

(b) The Support Coordinator will ensure that appropriate service coverage is available during the time of suspension and update the support plan accordingly. The Support Coordinator shall contact the Regional office immediately if assistance is needed in securing alternate services or providers. If the client is on the waiting list, the

region will ensure proper coverage is located.

(c) A suspension shall last no longer than 3 calendar days. Any additional suspension beyond 3 days must be requested by the provider and approved by the APD Regional office.

Specific Authority 393.125(2) FS. Law Implemented 393.125(2) FS. History—New 12-10-91, Amended 5-19-93, Formerly 10F-8.031, 65B-8.031,_____.

(Substantial rewording of Rule 65G-3.001 follows. See Florida Administrative Code for present text.)

65G-3.006 Retaliatory Conduct.

(1) No client receiving services shall be discriminated against in the receipt of those services nor shall it prejudice the future provision of appropriate services by the service provider when the client, or the client's individual representative, attempts to advocate for desired services.

(2) A service provider shall not retaliate against a client or the client's individual representative who has complained about the service provider to the Agency, a governmental entity or advocacy organization.

Specific Authority 393.125(2) FS. Law Implemented 393.125(2) FS. History—New 12-10-91, Amended 5-19-93, Formerly 10F-8.033, 65B-8.033,_____.