Notice of Change/Withdrawal

DEPARTMENT OF CHILDREN AND FAMILY SERVICES  
Agency for Persons with Disabilities

RULE NO.: RULE TITLE:  
65G-2.016: Residential Fee Collection

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 37 No. 11, January 13, 2012 issue of the Florida Administrative Weekly.

65G-2.016 Residential Fee Collection

1. This rule applies to all clients, as defined in section 393.063, Florida Statutes, who are eighteen years of age or older, who receive residential habilitation services, and who live in a foster care facility, group home facility, residential habilitation center, or comprehensive transitional education program, licensed pursuant to section 393.067, Florida Statutes.
2. Definitions. For the purposes of this rule, the following terms shall be defined as follows:
3. Agency. As defined in § 393.063, F.S
4. Benefit Payments. As defined in § 402.33, F.S.
5. Client. As defined in § 393.063, F.S.,
6. Gross income. For the purposes of this rule Gross income includes the sum of the client’s benefit payments and third party benefits less any deduction authorized in writing by the Social Security Administration or the Agency for Persons with Disabilities. Deductions may only be authorized by the Agency for Persons with Disabilities if the client is using benefit payments or third party benefits to offset a voluntary reduction in the client’s Medicaid Waiver services or if the benefit payments or third party benefits are used as a required payment, co-payment, or co-insurance for Medicaid services, including, but not limited to prescribed drugs. This term does not include the client’s earned income.

# (b) Personal Needs Allowance. A portion of the benefit payments and third party benefits that must be set aside and used for the direct benefit of the client. For purposes of this rule, a client’s personal needs allowance is $93.58 per month.

(c) Residential Habilitation. Supervision and specific training activities that assist the client to acquire, maintain or improve skills related to activities of daily living. The service focuses on personal hygiene skills such as bathing and oral hygiene; homemaking skills such as food preparation, vacuuming and laundry; and on social and adaptive skills that enable the client to reside in the community. This training is provided in accordance with a formal implementation plan, developed with direction from the client and reflects the client’s goal(s) from their current support plan.

(d) Room and Board Payment. Reimbursement to the operators of facilities or programs licensed pursuant to section 393.067, Florida Statutes, to cover the cost of providing food and shelter to Agency clients who also receive residential habilitation services in accordance with Chapter 65G-2 of the Florida Administrative Code. For purposes of this rule, a client’s room and board payment is $543.42 per month.

(e) Third party benefits. As defined in §402.33, F.S.

1. Room and Board Payment Rates. Providers serving clients who receive residential habilitation services within a facility licensed pursuant to section 393.067, Florida Statutes, will receive a room and board payment which is dependent upon the amount of benefit payments and third party benefits the client receives.
2. Payments to Providers:

The room and board payment is calculated by subtracting a personal needs allowance ($93.58 per month) from the client’s monthly benefit payments and third party benefits. The room and board ($543.42) payment is then subtracted from the remaining total. If any benefit payments or third party benefits remain after subtracting the personal needs allowance and room and board payment, the remaining balance shall be subject to the provisions in Section (5) below.

1. Fees assessed for Residential Habilitation services:
2. If a client receives residential habilitation services in a facility licensed pursuant to section 393.067, Florida Statutes, and the client’s monthly gross income exceeds the client’s personal needs allowance and the client’s room and board payment, the client must send the excess gross income to the Agency for Persons with Disabilities.
3. Payments made pursuant to subsection (5)(a) must be sent to the local APD area office by the 15th day of the month after receipt of the third party benefit payments. If the 15th of the month falls on a weekend, state holiday, or national holiday, then the payment due date will be the next business day immediately thereafter. Checks or money orders should be made payable to Agency for Persons with Disabilities (or APD). Individuals or organizations serving as the representative payee for multiple clients may submit a single check or money order to the Agency each month.
4. Clients or representative payees for clients shall submit an accounting for any deductions in the calculation of the fees assessed pursuant to this subsection.
5. Mandatory Monthly Reports to the Agency.
6. Every client or representative payee for a client, including a facility or program licensed pursuant to section 393.067, Florida Statutes, must report to the appropriate APD area office by the 15th day of the month. The report must include a calculation for each client that includes:
   1. The total gross income that the client receives;
   2. The amount to be subtracted for payment of the client’s room and board and for the client’s personal needs allowances;
   3. The total amount owed to the provider pursuant to subsection (4) of this rule or the total amount of the fee assessed pursuant to subsection (5) of this rule.
7. If the monthly report described in this subsection indicates that a fee should be assessed to the client’s third party benefits pursuant to subsection (5) of this rule, the client or representative payee for the client must also include a payment of the assessed fee with the monthly report.
8. If the 15th day of the month falls on a weekend, state holiday, or national holiday, then the payment due date will be the next business day immediately thereafter.
9. Review of Assessed Fees
10. Substantially affected individuals may request a review the fees assessed upon their gross income by submitting a request for review to the applicable area office. The client or responsible party must notify the agency, in writing, of the request for review of the fee assessed, and must submit any receipts, tax records, bills, certified statements or other documentation needed to substantiate the request for a review of the fee.
11. If the substantially affected individuals still disagree with the fees assessed upon their third party benefit payments after their request for review, they may request an administrative hearing pursuant to section 393.125, Florida Statutes.

*Rulemaking Authority 393.501(1) and 402.33, FS. Law Implemented 402.33, FS. History-New , Amended .*